Radio - Preparing for the Future

Phase 2: Implementing the Framework

Consultation

Publication date: **19 October 2005**

Closing Date for Responses: **11 January 2006**

Contents

Foreword

This phase of Ofcom's review of the UK radio industry, *Radio - Preparing for the Future,* which sets out the regulatory framework for the years ahead. As such, it sits alongside the Strategic Framework documents for other key parts of the wider communications sector (the Telecommunications Strategic Review, the Spectrum Framework Review and the Statutory Review of Public Service Television Broadcasting) which Ofcom has published over the past year.

Radio as a medium is increasing everywhere, ubiquitous in its reach and its power to inform and entertain locally, nationally and immediately. Listeners love their local station; they participate in their community station; and they regularly tune into their favourite stations. They move seamlessly from commercial to BBC radio and, through the ease with which radio has been distributed on multiple platforms, listeners have taken radio into the digital world in many ways ahead of its sister broadcasting medium, television.

While this is called a review of the radio industry, in fact Ofcom has regulatory responsibility for only part of the wider radio sector which comprises: BBC Radio, Commercial Radio; the new Community Radio sector; temporary radio services for events etc. licensed under Restricted Service Licences; and radio services delivered by new media, whether digital television, mobile devices or the internet, some of which are not subject to regulation, others of which are subject to a very light touch Ofcom licensing regime.

Historically, radio regulation has concerned itself with the licensing of the Commercial Radio sector, and primarily in recent years with FM licences. That historic concern represented Ofcom's jumping off point when we were vested with our regulatory powers at the very end of 2003. Since then Ofcom has:

- Introduced a streamlined and accelerated awards process for the remaining FM licences which can be accommodated within today's spectrum constraints for FM. Of the remaining 35 or so potential FM licence areas, 14 have already been awarded, bringing additional choice in commercial radio services to 5.8 million listeners. The remaining 20 or so FM licences will, we expect, all have been awarded by 2007;
- Launched the new Community Radio sector. To date 48 licences have been awarded for services in locations around the UK. The awards process is demonstrating keen interest from a very wide spectrum of providers to supply a range of new, not-for-profit radio services for their local communities.
- Supported the development of new, digital-radio based multi-media services, through flexibility in the licensing regime to allow new services, such as the GCap/ BT Livetime service, to get off the ground.

Going forward, Ofcom's ambitions through this review are to enable the sector to have more routes to audiences, more easily and more flexibly. Radio remains an important medium, which has public purposes that go beyond simple entertainment. In the digital era, the BBC and the new Community Radio sector will increasingly represent the direct public intervention to secure those wider public purposes. For Commercial Radio, the routes to digital remove the constraints of spectrum scarcity and allow a larger number of more diverse radio stations to increase choice for the listener to deliver, in a way that makes

commercial sense, those public purposes which, historically, regulation has sought to secure through licensing and detailed control of inputs.

There will remain a bed-rock of regulation, that Parliament has deemed necessary to achieve public purposes through Commercial Radio. But the consultation responses to our earlier document have confirmed Ofcom in our view that this bed-rock should increasingly be delivered through output regulation: the 'feel' of a station and listeners' experience – placing greater self-responsibility on station owners and their audiences rather than top-down prescriptions on a series of inputs. In this document we set out how output regulation can deliver the traditional concerns about 'sticking to the format promised', and to the new and important duty of securing localness, that Parliament has given to Ofcom.

Those are the objectives. This review document- and its sister publication, *Radio - Licensing Policy for VHF Band III, Sub-band 3* – sets out how these can be achieved and implemented. Of course, the future of a key element in the radio universe- BBC Radio- is part of the BBC Charter Review process being conducted separately by HM Government. Ofcom's responsibility in terms of the day to day regulation of licensing and radio do not extend to the BBC. But the BBC will be directly affected by our approach to the digital market: whilst in analogue AM and FM commercial radio came after the BBC, in digital both are developing together.

One of the most important issues concerns licensing policy. The majority of the demand for licences in Medium Wave was for large scale stations which the frequencies would not support. There was limited demand for other commercial services. But, importantly, Medium Wave spectrum has the potential to provide a digital migration path for small commercial and community stations through digital standards such as Digital Radio Mondiale; and we will look for scope to use Medium Wave to create such routes to digital. Medium Wave will continue to be licensed for community radio stations but licensing for analogue commercial radio is not currently a priority**.**

A significant quantity of spectrum in Band III, adjacent to existing Digital Audio Broadcasting services should become available shortly. In our Phase I document we suggested that this spectrum should be made available for digital radio for a combination of greater local coverage and additional scope for more national services.

There was a range of responses, with the majority endorsing Ofcom's preliminary conclusions.

In the parallel publication, *Radio - Licensing Policy for VHF Band III, Sub-band 3,* we propose that using this spectrum to achieve additional coverage for DAB local services and additional choice of DAB national services is the best way forward. Television has a secure forward base in digital. Digital Television has in recent years developed faster than Digital Audio Broadcasting. Nonetheless, over the past two years DAB take-up has developed rapidly with over 1.8 million DAB receivers now in the UK market, so it is approaching critical mass. Ofcom is persuaded that there are strong public policy reasons for making Band III spectrum available to complete the pattern of local multiplex licensing, and to ensure that additional services are available at national level.

Ofcom therefore proposes to allocate three blocks in Band III to complete the gaps in local multiplex coverage, and one block for an additional national multiplex, all to be licensed under the Broadcasting Act.

A key conclusion of the technical work which has fed into this Phase II Report is, that there will be a range of possible standards across Europe in the coming years and that technological development will increase the number of possibilities. These range from radio standards such as Digital Radio Mondiale (which could enhance the consumer value of the Medium Wave spectrum) to multi-media standards such as DMB/DVB-H, 3G and mobile satellite. These technologies provide exciting opportunities, and the market is already working towards delivering extra consumer benefits: manufacturers are demonstrating forward looking combined chip-sets incorporating DAB and Digital Radio Mondiale standards.

In radio, Europe-wide or, still more, world-wide, there is unlikely to be a single answer. Ofcom will follow these developments closely, and work with the radio industry to help ensure that it is best placed to take advantage of the opportunities they present.

The conclusions of this Review may seem technical. But that is because they are about a means to an end. The end is to enable radio to grow and flourish in the digital age and to remain that intimate and personal medium that brings us great music, sport and opinion, that connects us to our local communities and informs us about the wider world wherever we are.

Section 1

Executive Summary

Context

1.1 In the analogue world a combination of policy decisions and spectrum constraints have resulted in a radio market in which, broadly, the BBC predominates in UK-wide radio and the commercial sector predominates in local radio. Partly as a result of this, commercial radio is much less well funded, at both the UK-wide level and the local level, station by station, than the BBC and so the two sectors currently provide very different types of programming.

1.2 Digital radio, delivered via a number of platforms, is beginning to change this but the market is still dominated by analogue radio.

1.3 Radio in the UK is now broadcast on a number of platforms, including analogue radio, DAB, digital television and the internet. Ofcom's remit in the radio market is limited to certain areas – it does not regulate the BBC (except to deal with certain categories of complaint) or internet radio, and its regulation of commercial and community radio varies by platform.

Ofcom's overall strategic framework for radio

1.4 Digital radio provides many benefits for listeners, including greater choice of stations, easier tuning, more features (such as the ability to pause and rewind live radio) and the possibility of data services. In the future it is likely that the vast majority of radio listening will be to digital platforms such as DAB, radio via digital television and the internet. While Ofcom remains technology neutral, DAB digital radio is currently the only platform which offers the benefits of digital radio free to air, to mobile and portable receivers and which can guarantee a range of local and UK-wide services to the vast majority of the UK. As such it is important that we put in place the conditions to allow DAB digital radio to expand and thrive in the digital age, without precluding the development of other platforms over time.

1.5 Our overall vision for radio is to allow for increased competition in the market to provide as wide a range of services as possible and develop complementary new and innovative multimedia services to serve consumers' needs. Ofcom's role is to make that vision possible.

1.6 This will allow us to re-balance the way we regulate radio, withdrawing from regulation wherever we can, while ensuring the provision of those things that society values but which the market may not provide fully.

1.7 Our strategic framework for the future regulation of radio therefore has three elements:

- To enhance choice, diversity and innovation for consumers at the UK, national, regional, local and community levels.

- To secure citizens' interests through the provision of radio designed to meet public purposes.

- To do this with as little intervention in the market as possible, consistent with meeting our objectives.

1.8   If we follow this framework what might the radio market look like in 10-15 years time?

- A strong, independent BBC, providing a range of distinctive services which meet the public purposes of radio, as set out by the Green Paper on the future of the BBC. BBC radio services should aim to meet these public purposes across the schedule as a whole, including at peak times. But the BBC should operate in a way that is mindful of its effect upon commercial and community radio. A number of new measures will be required to ensure that this happens, as suggested by the Green Paper on the future of the BBC and Ofcom's response to that Green Paper.

- A multitude of community services at a very local level, providing social gain and listener involvement and training, for every community or establishment that wants and can sustain such a service wherever they are in the UK.

- A wide range and diversity of local and regional commercial services, catering for local tastes and interests and providing those elements of localness which listeners tell us they value – in particular (but not limited to) local news and information.

- A wide range of UK-wide stations offering new and innovative services, catering for a broad variety of tastes and interests, providing competition for the BBC and plurality of provision across all major programme genres at both a UK-wide and individual nation level. Just as digital television has evolved to provide channels catering for niche audiences, so should radio. Many of these niche genres are likely to be commercially viable only at a UK-wide level.

- A range of subscription radio services, offering programming that may not be supportable by traditional advertising methods.

- A range of long-term restricted service licences (LRSLs) catering for single sites and temporary services (short-term RSLs), for example, those catering for the needs of particular events (festivals, sporting events, etc).

- All of these services supported by multimedia services where viable, offering on-demand services, downloads, archive programming, text and graphical information.

- And all of these services available where and when audiences want to consume them on devices which offer real consumer benefits, whether stand-alone radio devices, integrated multimedia communications devices, or the internet.

1.9   The elements of this vision which are not completely met in today's radio market are the wide range of UK-wide commercial stations, the plurality of provision of UK-wide and nations radio which meets public purposes, a subscription radio sector and the wide range of community radio services.

The public purposes of radio

1.10   Our initial research, published with phase 1 of this review, suggested that audiences are broadly satisfied with the radio they get now. But given the extra options now becoming available (e.g. iPods) many listeners, particularly the younger ones, believe that radio needs to adapt and innovate to cater for their needs in a digital age.

1.11   Our latest research (shown in full in Appendix A) identifies a number of purposes and characteristics of radio and asks listeners how important these are to them as consumers and as citizens.

1.12   In an ideal world all of these purposes and characteristics would be met by the market – and, indeed, many of them are met (weather reports, traffic reports, providing company etc). But there may be some things which the market would either

not deliver at all, or not deliver in sufficient quantity and so intervention may be required to deliver them – these we define as the public purposes of radio.

1.13   The Green Paper on the future of the BBC set out a range of public purposes for the BBC, across all of its services. The purposes and characteristics our research has identified can be mapped onto these public purposes to derive a set of public purposes for radio as a whole. Together with the requirements on community radio to provide social gain, we believe these provide a comprehensive set of public purposes for which intervention may be required:

- Sustaining citizenship and civil society

- Promoting education and learning

- Stimulating creativity and cultural excellence

- Representing the UK, its nations, regions and communities

- Bringing the UK to the world and the world to the UK

- Providing social gain

1.14   The emphasis within each of these general public purposes for radio will be different from other media and different elements of each public purpose will be met by different radio sectors – BBC, commercial, community.

1.15   It is also worth noting that in addition to providing consumer benefits, the radio industry makes a significant contribution to the creative economy in the UK and that this role will continue to be important in the future.

Actions needed to make the strategic framework possible

1.16   The radio industry itself has begun to take advantage of these opportunities and will need to continue to innovate and adapt if it is to make the most of the opportunities offered by this strategy, but there are some specific things that Ofcom and Government need to do to facilitate this framework. (Note: the VHF Band III spectrum issues are considered in more detail in a separate document published alongside this report: *Radio – Licensing policy for VHF Band III, sub-band 3.*)

a. The regulation of Formats and localness

- So as to regulate in the least intrusive way while protecting the interests of citizens, we confirm the move from the regulation of inputs to the regulation of outputs.

  o We provide a final set of Localness Guidelines, (to comply with section 314 of the Communications Act 2003) which have been amended following consultation (principally around the suggestion that a local journalist should be present for all hours the station broadcasts local news).

    - We confirm that we will ensure compliance via a mix of responding to complaints, content sampling and a Public File, maintained by the station.

    - To provide clarity for stations we set out, for consultation, the process by which Ofcom will consider requests for Format changes for local commercial radio stations. This will apply in the short to medium-term. However, we note that, in the longer term, as competition increases and when digital radio is listened to by the vast majority of the population,

the need for Formats for local stations to specify the type of music they must play may diminish.

- Localness on digital radio is currently primarily ensured because many of the stations carried on local DAB multiplexes also have analogue licences and so are bound by analogue regulation (some digital-only services offer, or are committed to offer, local material). If and when simulcasting of these stations ends, there will be little requirement on them to broadcast local material. (Indeed there may come a stage when the majority of listening to a station is on digital platforms and it is no longer in that station's financial interests to maintain its analogue licence.) We recommend that the Government considers, in due course, what statutory provisions may be required, if any, for digital radio to ensure the continued provision of local material when simulcasting ends.

b. Plurality of provision of radio's public purposes (A PSP?)

- In Ofcom's Review of Public Service Television, we suggested that the plurality of provision of public service broadcasting would remain important in the digital age and that the provision of public service programming should not become the sole domain of the BBC. We suggested that such programming could continue to be provided by Channel 4 (although the broadcaster may need some form of public funding in the future to maintain its public service remit), but we also floated the idea of a Public Service Publisher, which would commission content not just for television but for emerging multimedia platforms.

- In radio, we recognise the lack of plurality in the provision of programming which meets all of the public purposes we identify, particularly the purpose of sustaining citizenship and civil society.

- We hope the release of more spectrum will allow the market to provide that plurality of services which meet the public purposes of radio and competition for the BBC in all relevant genres. However, if the market does not deliver, we recommend that Government considers the case for an additional publicly-funded radio broadcaster, as part of the consideration of the multimedia Public Service Publisher.

- This could be relevant both at the UK-wide level and in the provision of national services for Scotland, Wales and Northern Ireland.

c. The BBC

- Ofcom supports the existence of a strong independent BBC and welcomes the measures proposed by the Green Paper regarding:
  - o the issuing of service licences, and
  - o the proposals for Market Impact Assessments.

- However, Ofcom has recommended to Government that the Market Impact Assessments should be carried out by Ofcom and should apply to significant changes to existing services as well as new services.

- Ofcom also recommended to Government that we should be given ex-ante competition powers over the BBC, in a limited, clearly defined set of circumstances.

- We welcome the BBC's proposed consultation on providing commercial access to its radio archive.

d. Licensing policy

- Ofcom will continue to license local commercial FM stations and analogue community stations, but the amount of capacity available within the FM spectrum is very limited.

- Ofcom will look to create opportunities for more stations to offer their listeners the benefits of digital radio (ease of tuning, extra functionality such as pause and rewind, data and multimedia services and clear reception) in ways they want to receive it (such as portable and mobile receivers). We are not, at this stage, proposing a programme of Digital Switch-over for radio, akin to that in television. But we recognise the benefits of stations having the opportunity to broadcast digitally – but there is no automatic right for all existing services to have a migration path to digital.

- Ofcom is proposing, subject to consultation, to allocate 3 blocks of VHF Band III spectrum to local multiplexes on the DAB platform, to fill-in the gaps in existing coverage to ensure every part of the UK has the opportunity for at least one local DAB multiplex. When this roll-out is complete, the number of existing local analogue services also broadcasting digitally could be as many as 190. All of the BBC's local and nations services should then be available on DAB. We propose to license this spectrum under the terms of the Broadcasting Act

- In making these proposals, we have taken full account of the opportunity cost of using spectrum for this purpose, and not giving full flexibility to the market. We think the public policy benefits justify the choice.

- We do not believe that DAB, either in VHF Band III or in L Band is suitable to provide a digital migration path for all existing analogue stations. Ofcom will therefore consider the technical options which may provide the opportunity for a digital migration path for those stations (commercial and community) and/or areas where DAB does not provide a viable option. One contender is DRM (Digital Radio Mondiale) which could operate on Medium Wave spectrum (currently used for AM radio) or in the longer term on VHF Band II (currently used for FM radio).

- Space for broadcasting in Medium Wave is scarce. In the main the only demand for further analogue medium wave licences to be advertised is from stations wishing to provide services offering very large scale coverage. But due to the constraints of existing usage of medium wave spectrum, licences of such scale are not a practical option. Medium Wave spectrum could be required to provide a digital migration path for small commercial and community stations using DRM. Ofcom considers that there should be no further licensing of commercial stations on Medium Wave given the long duration of the licences, and the risk of a potential conflict with use for DRM. Ofcom will not therefore license any further Medium Wave commercial stations for the time being, although we may license more community stations on Medium Wave as they are small scale and limited to 5 year licences.

- Ofcom considers that, at some stage, it will be appropriate for the simulcasting of services (both local and UK-wide) on analogue and digital platforms to end. This should not happen until the vast majority of listeners are equipped to receive digital radio in the manner in which they currently receive analogue radio (such as on portable and mobile receivers), and only after a full analysis has been carried-out.

- To provide more choice for as many consumers as possible, and to provide those services which may only be viable at a UK-wide level, Ofcom proposes, subject to consultation, to allocate one block of spectrum in VHF Band III to provide an additional UK-wide multiplex. This spectrum is made available to provide more sound services as well as the opportunity for innovative multimedia services. In

order to secure a variety of broadcasting policy objectives we propose to award this multiplex as a Broadcasting Act licence.

- DAB is not generally suitable for community radio, given its multiplexed nature and so alternatives may be required. These could be digital (e.g. DRM) or analogue. In time, additional capacity could become available for these services through an end to the simulcasting of services (both local and UK-wide) on analogue and digital platforms, by switching off the analogue service, once the vast majority of listeners are equipped to receive those services on portable and mobile digital radio platforms. A full cost benefit analysis would be carried out before a decision was taken on this issue.

- There are many other commercial opportunities for radio beyond those discussed here. For example, Ofcom's programme of spectrum auctions should allow new services and networks to be developed, using L-Band and other frequencies. This programme will give as much flexibility as possible to the market to decide on technologies and services. There may well be opportunities to develop new data and multimedia services, or further sound radio services, whether free-to-air or by subscription (which our research shows may be popular).

- We confirm our proposal to move from a minimum bit-rate requirement to a co-regulatory approach to maintaining the quality of sound services

Question for consultation

1.17   We would welcome views by **11 January 2006** on the following question:

> *Do you agree with the proposed procedure and considerations for dealing with requests for Format changes for analogue commercial local radio stations?*

1.18   The accompanying document *Radio – Licensing policy for VHF Band III, sub-band 3* also poses a question, for consultation, about the licensing of VHF Band III spectrum.

Section 2

Introduction

2.1   The way that people listen to radio, and what they listen to, is changing. New platforms and devices offer more choice and the competition for listeners' attention from other devices, such as iPods, is increasing. These changes offer many exciting new opportunities, but the radio industry will need to innovate and adapt to be able to take advantage of these changes and to remain relevant to listeners' needs.

2.2   Ofcom's remit in the radio market is limited to certain areas:

- Ofcom licenses analogue (AM and FM) and digital (DAB and digital TV) radio services in the UK in the commercial and community sectors and regulates content on those services (although licensing and regulation differ by platform);

- Ofcom does not regulate BBC radio services, with the exception of dealing with certain categories of complaint; and

- Ofcom does not license internet radio services or regulate content on those services.

2.3   Phase 1 of Radio – preparing for the future made proposals about the development of digital radio and the provision of localness on commercial radio and asked whether there might be a set of public purposes for radio in the 21st century.

2.4   This report sets out our conclusions on those issues and presents Ofcom's framework for the future of radio regulation in the UK with a view of what sort of radio services listeners might be able to expect in ten to fifteen years time.

2.5   This vision of the future is grounded in Ofcom's duties and principles. It is based on what listeners say matters to them as consumers and as citizens, and founded in a belief that, wherever possible, the market should provide for consumers' needs.

2.6   However we believe that the market does not, and cannot, provide everything that consumers and citizens demand of radio services in the UK, and so intervention in the market will still be needed to ensure the appropriate provision of certain types of output and certain key characteristics.

2.7   Ofcom's role in the radio sector is to put in place the conditions to allow the market to deliver what consumers and citizens want from radio, while protecting the provision of those things which the market itself might not deliver in sufficient quantity or quality, with as little intervention as possible. We set out here how we see the role of each sector developing within the overall radio market and suggest what needs to be done to achieve the vision.

2.8   Finally, we set out our conclusions on the proposals we made in Phase 1 around the future licensing of DAB and the regulation of local commercial radio.

Section 3

The radio industry today

The development of radio in the UK

3.1   The UK radio market today is a product of over 80 years of radio broadcasting in the UK and 30 years of commercial radio broadcasting. Like television, radio broadcasts a mix of public services and commercial services, but the way that radio has developed in the UK is very different from television.

3.2   Competition in television in the UK existed almost from the start. From its small beginnings in 1936, BBC television re-launched in 1946 after the war, but it did not make an impact on the mass market until the Queen's coronation in 1953. Only two years after that, ITV was launched. The roll-out of television across the country of the BBC's single channel was broadly in line with that of ITV's single channel. While ITV was, strictly speaking, a regional federation of different channels with different owners, most of the programming was networked. The spend of both ITV and BBC Television was broadly matched and the resulting duopoly was generally regarded as serving the British public well. Despite their different funding mechanisms, both the BBC and ITV had similar remits and delivered high quality programming across a broad range of genres to mass audiences.

3.3   The launch of BBC 2 in 1964 and Channel 4 in 1982 replicated this duopoly for smaller channels, allowing BBC 1 and ITV to serve a mass market and BBC 2 and Channel 4 to cater for more minority audiences. It was only when multichannel television launched in 1988 that this picture began to change and, even then, the change was gradual.

3.4   The picture in radio was very different. The BBC had a monopoly in the radio market for over 50 years. When competition did arrive it was initially only at a local level (where the BBC was also present in the market). The aim was to provide something different from the UK-wide programming that the BBC provided and to allow a number of new entrants, aiming to replicate the success of the early years of the regionally owned ITV. The local commercial stations were all locally – and separately - owned and operated and no programme sharing was allowed, other than for the UK-wide news bulletins from IRN. From the start, these commercial local stations faced competition from four BBC UK-wide radio networks and a string of BBC local radio stations. Moreover, unlike many other countries, commercial radio arrived many years after commercial television. As a result, it found it much harder to make an impact on the advertising market than if it had been in existence before television.

3.5   Despite these disadvantages, the commercial stations were popular. Listeners liked the fresh approach and the localness they provided. However, due to a number of factors - their much smaller size compared to the UK-wide networks, fragmented local ownership, lack of a UK-wide outlet, lack of a portfolio of stations and links with television to allow career progression for staff and the cross-promotion of services, and the difficulties of breaking into the advertising market (particularly as it was launched during a recession) - commercial radio struggled to make money in the early years.

3.6   Meanwhile, the BBC with its more secure funding base, could afford to invest in radio. While, arguably, it may not have had the impact of television, the BBC could reach audiences much more cost effectively with radio than with television. It

therefore, quite logically, allocated what it regarded as an appropriate proportion of its total resources to radio, to ensure that it was serving all licence payers as effectively as possible.

3.7   However, while in television this allocation resulted in a fairly level playing field with ITV and Channel 4, in radio, the BBC's spend on each of its radio stations far exceeded that of each commercial radio station. The commercial radio sector found it hard to compete for talent, both in purely financial terms and in the way that the BBC could offer career progression and deals across its radio and television networks.

3.8   As further competition arrived in commercial radio it was largely focused, for technical as well as legislative reasons, on providing more local stations. While the Radio Authority had a duty to ensure that these new stations extended the range and choice of local commercial radio stations available to listeners, particularly in areas which already had commercial stations, the effect was largely that the audience for commercial stations was spread across a larger number of commercial stations. The total advertising pot did not grow as fast as the number of stations and so the funding for individual commercial stations in general declined.

3.9   Despite this, and perhaps because of listener demand for local programming, local commercial radio has generally been a success, although in the past couple of years its audiences have been slipping.

3.10   The advent of UK-wide commercial radio stations in the early 1990s did not perhaps make the impact anticipated by some. By that time, most listening was on the FM band, which offered much better sound quality and less interference than Medium Wave.) Four of the BBC's five UK-wide networks and all of its local stations are broadcast on FM. However, there was enough FM spectrum for only one UK-wide commercial station and the legislation required it to broadcast music other than pop music. This licence was awarded to Classic FM. The other two stations were licensed on the much less attractive medium wave (AM) band. One of these was required, under the legislation, to broadcast at least 50% speech (this licence is now held by talkSPORT), while the third UK-wide licence had no statutory restrictions as regards its format (this is held by Virgin Radio). As a result of these restrictions, while the UK-wide commercial stations have been relatively successful, commercial radio remains primarily a local medium in the analogue world.

3.11   The result of this development has been an analogue radio market which consists of:

- a well-funded, successful public sector UK-wide portfolio of stations, offering a wide range of output and local speech-based stations;

- a large number of local commercial stations, mainly focused on mainstream music output, often successful in their own areas (although many smaller stations struggle financially);

- three UK-wide commercial stations, two of which are required by legislation to broadcast certain types of output and two of which do not broadcast on the more popular FM waveband; and

- an emerging community radio sector with the goals of social gain and community access.

The advent of digital radio

3.12　The BBC first launched digital audio broadcasting services (known as T-DAB or more commonly as DAB digital radio) in 1995 and now offers 11 UK-wide digital radio stations (including five only available nationally on digital and the World Service).

3.13　Since then commercial operators have also made significant investments in digital radio. A commercial multiplex licence covering the whole of Great Britain (a frequency for Northern Ireland was not available) was awarded to Digital One in 1998. Digital One launched its first commercial services in 1999 and now offers eight services, including five available only on digital. Local DAB commercial services are now available from 46 local DAB digital radio multiplexes around the UK. Digital versions of the relevant BBC Local Radio or nations' services are also carried on the appropriate local commercial multiplex.

3.14　In addition, a large number of radio services are now available on all digital television platforms and the internet, and are gaining a significant number of listeners.

How much choice do listeners have?

a. Analogue radio

3.15　There are 326 full-time analogue radio stations broadcasting in the UK (excluding RSLs and pilot community stations). The increase in the number of stations over recent years has allowed for the launch of stations offering more niche formats and for stations which can provide more localised programming to smaller areas than was previously available. As community radio becomes more widespread over the next couple of years, analogue choice in some areas will increase further.

3.16　The number of analogue stations from which listeners can choose depends upon where they live in the UK . Listeners in Greater London and the Home Counties currently have the greatest choice of stations, at 26 (figure 1). Rural areas, such as Caernarfon, have the least choice – typically around eight stations, with one UK-wide commercial and one local commercial station available, in addition to the BBC. This pattern was determined by licensing policy and commercial reality – there is far higher demand to run services in metropolitan areas than there is in rural areas.

3.17　Commercial radio does not have genres in the same way as TV, but stations can be grouped into one of a number of styles, although these can only be broad-brush categorisations. Each station's Format (which forms a part of its licence) defines the exact character of the service and the supporting detail (which may, for example, include specific programmes that fall into a different style).

Figure 1: Illustrative availability of choice of analogue stations by area

Number of stations

Source: RAJAR / Ofcom

3.18   There is little duplication of formats in individual analogue markets. This is largely due to one of the statutory requirements that licences are awarded with regard to the extent that the choice of services available in the area is broadened. Where there is duplication, it tends to be local Chart Led Mainstream (on FM) or 35+/Gold (often on AM) services competing with a larger station of the same format from the nearest big city.

3.19   Where Chart Led Mainstream and 35+/Gold stations were already available (a legacy of original ILR stations splitting frequencies in the late 80s / early 90s), new entrants to the market – whether serving a smaller area within an existing licence or a regional station – have tended to adopt the Adult Mainstream style.

3.20   There is not a direct correlation between the number of stations of a particular style and the availability of such stations (figure 2) – e.g. even though there are more Adult Mainstream stations than any other style, they only cover around 76% of the population, as they are largely either regional or small town stations. Overall, the largest number of local analogue stations (52%) can be classified as Adult Mainstream, with Chart Led and 35+ / Gold stations being the next most common.

3.21   UK-wide analogue radio stations and brands provide services which are listened-to across a wide range of demographics. In very general terms, the BBC stations tend to have a higher proportion of ABC1 and older listeners than commercial services, while both digital and analogue commercial brands tend to have younger listeners.

Figure 2: Population coverage of different analogue radio styles

Share of population
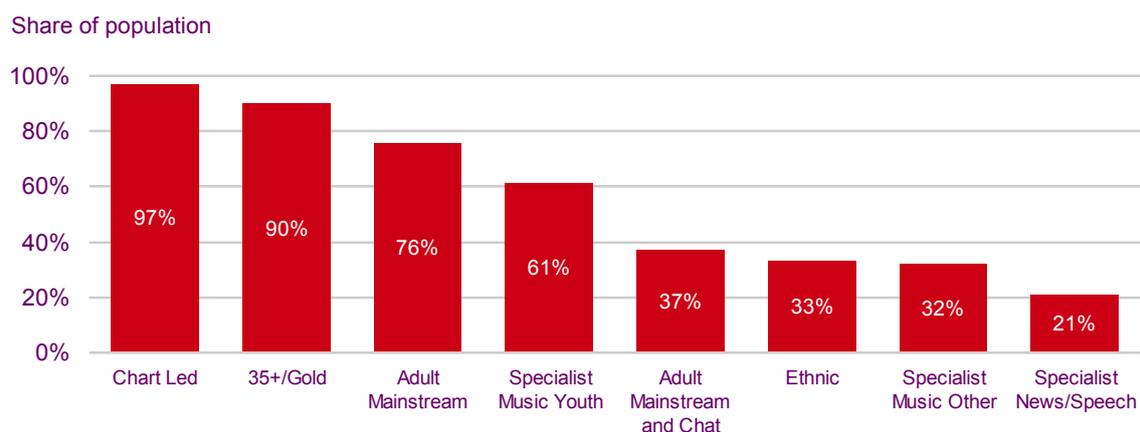
Source: Ofcom

b. DAB Digital Radio

3.22   The BBC's UK-wide DAB multiplex carries simulcasts of its five analogue network stations as well as five digital-only UK-wide services and the BBC World Service. These services are also carried on the internet and digital television platforms. The BBC has reserved capacity on all 46 local commercial DAB multiplexes and uses this to offer the relevant local or nations' stations. This allows the BBC to broadcast 32 of its local and nations' services on DAB – some stations are carried on more than one multiplex.

3.23   Of the 172 commercial radio stations broadcasting on DAB digital radio:

- 119 are simulcasts of existing analogue local stations broadcasting only within their existing analogue area (e.g. BRMB)

- 10 are existing analogue stations broadcasting to their existing area and also to new areas on DAB to create a quasi-national network (e.g. Kiss)

- 18 are only available on digital and broadcast to more than one local multiplex area to create a quasi-national network (e.g. The Arrow)

- 17 are only available on digital and broadcast on a single local multiplex only (e.g. Radio Acen)

- 5 are digital-only stations broadcasting nationally (Oneword, Primetime, Core, Life and Planet Rock)

Figure 3: The availability of DAB radio services in different areas of the UK (June 2005)

	Region	Areas
	N West	LONDON; Liverpool; Manchester; Lancs
	Yorks	Sheffield (S. Yorks.); Leeds; Bradford & Hudd.; E Yorks & N Lincs
	N East	Teesside; Tyne & Wear
	W Midlands	Birmingham; Wolv/Shrop; Coventry; Stoke
	E Mids	Leicester; Nottingham
	East	Peterborough; Cambridge; Norwich; Essex
	South	Kent; Sussex Coast; S Hants; Reading & B#stoke; Bournemouth
	SW	Exeter & Torbay; Plymouth & Cornwall
	West	Swindon; W Wilts; Bristol & Bath
	Wales	Cardiff & Newport; Swansea
	Scotland	Ayrshire; Glasgow; Edinburgh; Dundee & Perth; Aberdeen; Inverness
	NI	N Ireland

Population figures (000s): 48,862 | 9,812 | 1,819 | 2,466 | 1,329 | 1,253 | 1,071 | 843 | 675 | 673 | 1,389 | 1,838 | 1,087 | 622 | 880 | 723 | 1,061 | 386 | 346 | 593 | 1,291 | 1,148 | 878 | 1,089 | 636 | 464 | 496 | 326 | 330 | 309 | 827 | 843 | 551 | 300 | 1,801 | 1,167 | 449 | 346 | 238 | 1,313

Percentages: 20.1% | 3.7% | 5.0% | 2.7% | 2.6% | 2.2% | 1.7% | 1.4% | 1.4% | 2.8% | 3.8% | 2.2% | 1.3% | 1.8% | 1.5% | 2.2% | 0.8% | 0.7% | 1.2% | 2.6% | 2.3% | 1.8% | 2.2% | 1.3% | 0.9% | 1.0% | 0.7% | 0.7% | 0.6% | 1.7% | 1.7% | 1.1% | 0.6% | 3.7% | 2.4% | 0.9% | 0.7% | 0.5% | 2.7%

Station	Format	Owner
Classic FM	Classical music	GCap
Core	CHR	GCap
Capital Life	AC	GCap
Oneword	Books, plays, comedy	Channel 4
Planet Rock	Rock	GCap
Prime Time	Easy listening	Saga
TalkSport	Sport	TWG
Virgin Radio	Rock & contemporary	SMG
BBC Radio 1		BBC
BBC 1 Xtra		BBC
BBC Radio 2		BBC
BBC Radio 3		BBC
BBC Radio 4		BBC
BBC Five Live		BBC
BBC Five Live Sports Extra		BBC
BBC 6 Music		BBC
BBC 7		BBC
BBC Asian Network		BBC
BBC World Service		BBC
3C	Country	SRH
A Plus	Asian	Other
Access Channel	Access	Other
Beat 106	Dance	GCap
Capital Disney	Children's	GCap
Capital FM	CHR	GCap
Capital Gold	Classic Hits	GCap
Century	AC& talk	GCap
Chill	Relaxing music	GCap
Choice	Urban music	GCap
Classic Gold	Classic Hits	UBC
DNN	Regional News	Other
Easy Radio	Easy listening	Other
Fun	Children's	Hit/GCap
Galaxy	Dance	Chrysalis
Gaydar	Gay	Other
Heart	AC	Chrysalis
Heat	Music variety	Emap
Islam Radio	Asian	Other
Jazz FM	Jazz	GMG Radio
Kent Digital Extra	Local	KMFM
Kerrang!	Rock	Emap
Kiss	Dance	Emap
LBC 97.3FM	Newstalk	Chrysalis
LBC News 1152	News	Chrysalis
Magic	Easy listening	Emap
Masti Radio	Asian	Other
Panjab Radio	Asian	Other
Passion for the Planet	Environmental	Other
Radio Acen	Welsh	Other
Real Radio	AC& talk	GMG Radio
Sabras Radio	Asian	Other
Saga	Easy listening	Saga
Smash Hits	CHR	Emap
Smooth	Soul	GMG Radio
Spectrum	Multicultural	Other
Storm	Rock	GCap
Sunrise Radio	Asian	Other
Swindon FM	Local	Other
The Arrow	Rock	Chrysalis
The Hits	CHR	Emap
UCA Radio	Local	Other
Vibe	Dance	SRH
Virgin Classic Rock	Classic Rock	SMG
Virgin Groove	Soul & disco	SMG
XFM	Alternative rock	GCap
YARR	Asian Rock	Other
Other local stations		Various
BBC Local & Nations'		BBC

Total number of services: 52 | 38 | 36 | 38 | 38 | 38 | 35 | 38 | 38 | 38 | 38 | 37 | 37 | 21 | 28 | 28 | 26 | 26 | 27 | 26 | 26 | 26 | 26 | 27 | 26 | 27 | 29 | 29 | 37 | 34 | 35 | 34 | 34 | 34 | 27 | 28 | 24 | 20

Number of local/regional multiplexes: 3 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 1 | 1 | 1 | 1

Legend:
- National commercial station - available only on digital
- National commercial station - also available on analogue in that area
- BBC station - available only on digital
- BBC station - also available on analogue in that area
- Local or quasi-national commercial station - available only on digital in that area
- Local or quasi-national commercial station - also available on analogue in that area

- Station on local multiplex in that area
- Station on regional or national multiplex in that area

- 3 are simulcasts of existing analogue UK-wide stations (Classic FM, talkSPORT and Virgin) broadcasting on the UK-wide commercial multiplex

3.24 The combination of incomplete coverage and the locations/coverage areas of regional and local DAB multiplexes results in different levels of choice on DAB digital radio in different regions of the UK. Around 14% of the UK population has no access to DAB services at all – mainly in rural areas.

3.25 Urban areas typically have around 30 stations available through DAB digital radio. Londoners have the widest choice of commercial stations, with three local digital multiplexes and the two UK-wide multiplexes, offering 54 programme services in total including the BBC. Rural areas tend to have fewer stations as the initial allocation of spectrum for DAB concentrated on maximising the number of digital services which could be provided in most of the major population centres of the UK (see figures 3 and 4).

Figure 4: Indicative availability of DAB digital radio stations by area
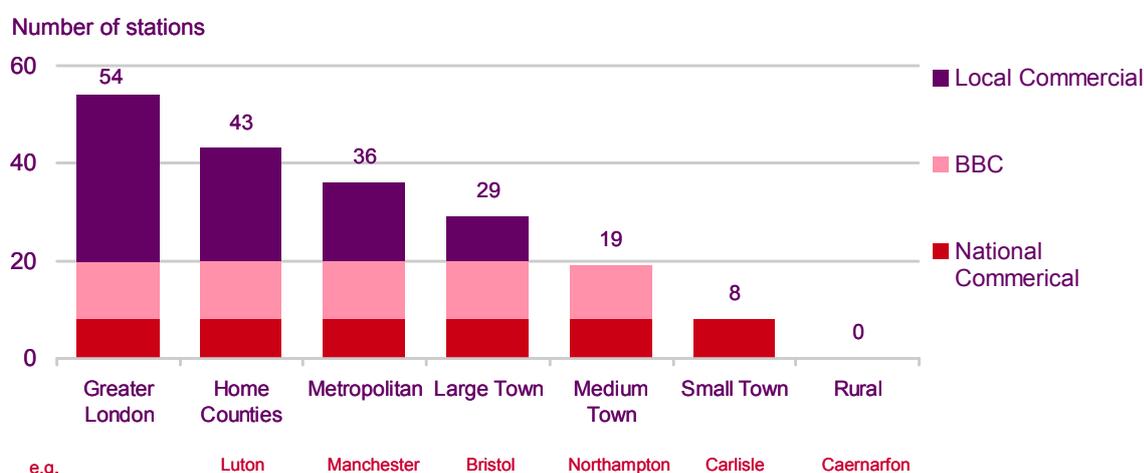
Source: Ofcom

Changing listening habits

3.26 DAB is only one element of a market that is changing more rapidly than DAB take-up would suggest. The way that listeners consume radio is changing and the competition from other forms of audio and video entertainment is increasing and the radio industry is at the forefront of convergence with other media.

3.27 Digital radio can be received currently on a number of platforms – digital television (satellite, terrestrial and cable), the internet and DAB digital radio. Digital television platforms' radio offerings include the BBC networks and a variety of commercial stations. Of these, Sky currently provides the widest choice of radio stations for the individual listener, with 88 radio stations, the majority of which are not available on analogue radio to most listeners. On Freeview there are 25 stations broadcasting nationally with around 40 stations on cable. 30% of the population claim to listen to radio via their television – this equates to half of all digital television viewers. There are thousands of radio stations available on the internet and 16% of the population listens to radio in this way (figure 5).

3.28 The rise in internet listening may be expected to increase further over time as a result of product innovations. Also, broadband wireless networks are becoming increasingly

common, which may allow one of the key characteristics of radio, portability, to be replicated.

3.29   Rajar estimates that in Quarter 3 of 2004, 13.1% of all radio listening was on digital platforms, of which DAB digital radio accounted for 5.4%, digital television for 5.2% and the internet for 2.5%.

3.30   And this is only live broadcast or streamed radio: there is already podcasting of radio programmes, interactivity surrounding them and soon Livetime will launch the first service combining DAB digital radio with data and television services to mobile devices. These developments are only the start.

Figure 5: Listened to radio via television or the internet

Source: RAJAR

3.31   The BBC has gained much of the attention in this area. Its Radio Player offers on-demand access via a PC to all of the BBC's radio programmes for the past seven days, searchable by station and genre. It offers background information, educational content about music allowing users to create their own music, and message boards, as well as downloads.

3.32   Such services are not the sole preserve of the BBC. Commercial radio was also at the forefront of these developments and in some cases was ahead of the BBC. For example:

- Virgin Radio led the way in streamed internet radio and was the first UK station to offer a daily podcast with the Pete & Geoff show;

- LBC is podcasting some of its key programmes;

- Xfm offers internet users the chance to listen online to its archive sessions and provides an online video jukebox;

- GMG's jazzfm.com service offers an archive service and several 24 hour streamed jazz services;

- Emap's radio services on Freeview offer the chance to download ring-tones;

- GCap Media's Hear It, Buy It, Burn It service allows listeners to buy and download music tracks that they have heard on their local radio station; and

- Several stations have online panels which allow listeners to help to choose the music played on the station, and most stations have a website which can provide everything from local news, to gig guides, to charity and social action appeals.

3.33   The days of a radio station being only about the single service that comes out of the speaker are long gone. Radio is already a multimedia industry and the importance of multimedia in building and retaining audiences and in providing new revenue streams can only grow in importance in the future.

The Public Purposes of radio

How do people feel about radio?

4.1   Our initial research, published with phase 1 of this review, suggested that radio performs a number of functions including providing company and involvement, contributing to and impacting on mood, connecting with the outside world on a local, UK-wide and global level in order to keep listeners in touch with unfolding news and events, providing information on weather, traffic and events; providing sports coverage, keeping listeners up-to-date with trends in new music and bands, and providing an alternative to other forms of entertainment. Radio is seen as portable and always available to listen to.

4.2   However, there are some negative associations with radio: some listeners believe there is too much advertising; there is a belief that there is too much repetition in terms of the music played; there is not always enough interactivity with presenters and little participation and conversation; the news on the radio is not always felt to be relevant and is used to fill time; and some feel that there is too much news and that news items are repeated too regularly on the radio, both locally and nationally.

4.3   Despite these negative associations and the fact that many people listen to the radio while completing other tasks, our research shows that people consider radio to be important and relevant.

4.4   While our research suggested that the majority of listeners are satisfied with what they listen to on the radio, it is impossible to know whether people would be as satisfied if the radio stations on offer were driven purely by the market and did not have the obligations that current radio stations have. In other words, is the current level of intervention responsible for the high level of satisfaction? Or, does the high level of neutrality towards the question indicate that radio is not sufficiently important in people's lives to warrant the current level of intervention?

4.5   The listening patterns of consumers may change in the future as new technology and increased choice become increasingly prevalent and we found that many consumers in the younger age group, aged 18-30, more than previous generations, expect to be able to take their music around with them, wherever they go. They also want more control over what they listen to, whether from their own music collection or from the radio. But radio is still important to them and they want the comfort and security of human voices. They want more intelligent radio and are intolerant of what they see as inane chat or poor adverts. They are interested in the news and they want to be stimulated by interesting speech programming that is designed for their age group, and new music which broadens their horizons, as well as in information which helps them to live their lives, weather, traffic and travel news or the local gig guide.

4.6   Many said they want the added-value content that radio can offer, over and above their own music collections on their iPods. But in order to survive and remain relevant to their lives, they believe radio must change. It must be available in ways they want to consume it, such as through small, portable devices which integrate mobile phones and MP3 players. They also want a wider choice of high quality stations. They want it to be easier to find the "good stuff" on the radio and they like the new functions that digital radio can offer, such as the ability to pause and rewind live radio

and download tracks to their MP3 players (and for this generation downloading is a way of life) – with the proviso that it is easy to use.

4.7 These developments suggest that the radio industry will have to innovate and adapt to listeners' changing expectations of the medium.

The rationale for intervention

4.8 In phase 1, we suggested that there were both consumer and citizen rationales for intervention in the radio market.

4.9 For consumers, our hypothesis was that radio is sufficiently important in people's lives to warrant intervention to address any market failures. By considering overseas markets, we suggested that there may be market failures resulting from the advertising model which meant that broadcasters are likely to cluster around the most lucrative demographic group for advertisers and to reach the maximum geographical audience, so depriving some listeners of the types of services they want – in particular local programming and a wide range of genres, such as more specialist music and speech.

4.10 For citizens, we argued that even if the radio market is working effectively for consumers, it may not provide things that are good for society. For example, listening to news on the radio, both UK-wide and local, helps to make listeners better informed and therefore better able to participate in a democratic society, to the benefit of everyone.

Questions about the public purposes of radio

4.11 Much of UK radio is about providing listeners with entertainment and company. But, beyond this, taking into account the consumer and citizenship rationales for intervention, we believe there may be a set of wider public purposes which citizens and consumers expect radio to deliver. In phase 1 we asked for views on what those purposes might be and said we would carry out more research.

4.12 We invited views on the following questions:

- How important is plurality of provision of public purposes for radio? There is plurality of provision in some areas – BBC Radio 3 and Classic FM; BBC Radio Five Live and talkSPORT; the local news provision of BBC local radio and commercial local radio – and such plurality generally benefits listeners and is to be welcomed. But are there other areas where plurality and competition is desirable?

- How much of what commercial radio does could be classified as meeting public purposes?

- How well does the current market structure help fulfil public purposes in radio?

- Should the BBC's radio archive be made more widely available to commercial players to provide alternative radio services?

- What might the public purposes for radio be and how should they best be delivered?

Consultation responses

4.13 A broad range of answers were received on these questions, although there were very few detailed responses. In general, the idea of public purposes was broadly

thought to be useful, although there were some dissenting voices (including Saga and a confidential respondent). Their concern was that public purposes may create additional burdens on commercial radio. However, they felt that there was a case for defining the public purposes of BBC radio.

4.14   The Commercial Radio Companies Association argued that, while developing a set of public purposes as a whole was important, it was at least as important to develop a set of public purposes for each of the three main types of radio service: BBC, commercial and community. It went on to argue that, because of the way it is funded, the delivery of public purposes by commercial radio will depend upon the popularity of such programming and therefore its attractiveness to advertisers.

4.15   Plurality was generally thought to be important by most respondents. In addition, there was broad consensus that the BBC radio archive should be made more widely available to commercial radio stations.

Our phase 2 research

4.16   We carried out research during early 2005 (shown in full in Appendix A) to try to identify the essential purposes and characteristics of radio, and from this to identify what might be the particular public purposes of radio.

4.17   In our research, listeners said that radio was important in their lives and, although it was more of a background medium than television, they relied upon radio and expected it to deliver a number of key purposes and characteristics:

- Radio services that are easy to access wherever and whenever listeners want to hear them;

- Radio programmes and services of a high quality;

- Timely provision of relevant information, including local and UK-wide news, weather and traffic and travel;

- A wide variety of music and speech programming;

- Radio that provides a sense of community and serves and supports the different communities that make up the UK; and

- Radio that delivers social benefits, including cultural and economic benefits.

4.18   Within each of these general areas there are specific examples of what people want radio to deliver (these are summarised in figure 6).

Figure 6: Purposes and characteristics of radio
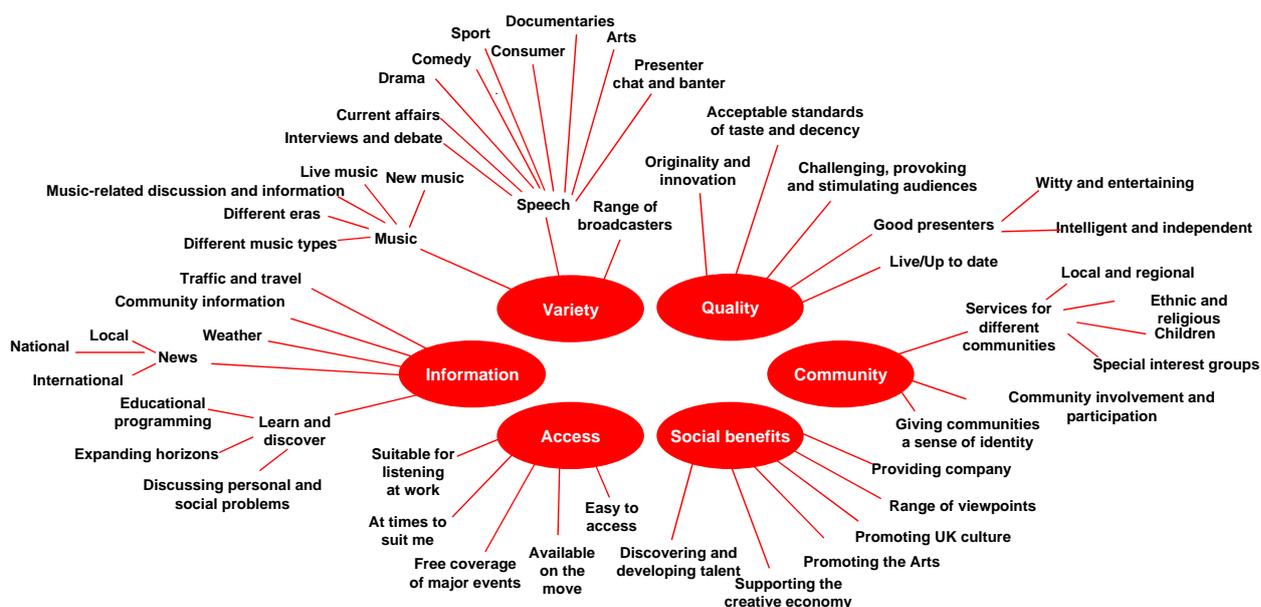
4.19 These purposes and characteristics, developed by the focus groups were then tested in quantitative research. The most important attributes of radio were found to be:

- Music variety;

- Local and UK-wide news and weather reports;

- Witty, entertaining and intelligent presenters; and

- Ease of access wherever and whenever you want.

4.20 The least important components were felt to be:

- The promotion of cultural activities;

- Educational programmes for children and adults; and

- Stations that satisfy the needs and concerns of ethnic minorities.

4.21 But, even the least important were only seen as relatively unimportant. The lowest ranking component (Programmes that promote cultural activities like music and the Arts) was still considered important by 48% of survey respondents – with 24% remaining neutral on this statement.

4.22 Our research identified five main groups of radio listener, each with a distinct attitude to radio. These included the Mobile Music Specialists, who feel it is important that radio provides new and live music and are less interested in the provision of local news and speech programming; the Radio Evangelists, who are enthusiastic about radio and feel it is important that it offers the full range of "social goods", such as education, local news and new music, who want to be stimulated by radio and get involved in radio; and the Speech-Hungry, who value a wide range of speech programmes and stations, providing news and information, with intelligent presenters who know their own mind.

4.23 There was generally a strong correlation in all groups between those attributes that people think are most important for UK radio, and how well they feel those attributes are currently delivered.

4.24   But in general we found that people don't naturally think of radio as a "public service"
        – and there was certainly less resonance for the phrase among radio listeners than
        among television viewers who participated in similar research for Ofcom's PSB
        Television Review.

4.25   The focus group participants tended to define radio's "public service" in very narrow
        terms – public information, free-for-all, and catering for special needs audiences
        (especially the visually impaired). Such characteristics and obligations tended to be
        linked exclusively to the BBC, although as well as this, people strongly believed that
        radio provides considerable benefits to society, including companionship, mood
        management (stress relief, getting the working populace out of bed in the morning
        etc) and championing local causes.

4.26   So, to try to separate consumer and citizen perspectives, and so gain some insight
        into what constitute the public purposes for radio, we asked participants to rank
        different content types in terms of what they considered most valuable for them
        personally and what they considered most important to society as a whole.

4.27   While there were some slight differences in the two lists, overall, content types that
        rated as important to listeners personally also rated as important to society as a
        whole.

4.28   The issue of plurality of provision was explored further in the research, but there was
        little evidence from this research to suggest that greater plurality per se would be
        welcomed by the listening public. Many participants in the focus groups - especially
        those who felt that BBC services were already superior to "the competition" -
        struggled to understand there should be a need for radio services provided by a
        range of suppliers. Those with access to a wider range of competing radio services
        (those in major conurbations and digital users) were more cynical and talked about
        their experience of commercial competition crowding the middle ground.

4.29   However a minority of the most critical listeners and especially some Radio 4
        listeners, did feel that the introduction of some more direct and high quality
        competition could help the BBC to raise its standards.

A set of public purposes for radio

4.30   In an ideal world, all of the purposes and characteristics identified by our research
        would be delivered sufficiently well by the market. However, as we suggested in
        phase 1, this is unlikely to happen.

4.31   So for the purposes of this review we are defining the public purposes of radio quite
        narrowly, as those things which, as a society, we value, but which the market would
        either not provide at all, or would not provide in sufficient quantity. These are the
        things for which society might want to intervene to ensure their delivery, either
        through publicly funded organisations, such as the BBC, or through the requirements
        on commercial stations or community stations via their licences.

4.32   Using our definition, not all of the purposes and characteristics identified by our
        research are public purposes. That is not to say that there are other things which
        society values and which radio provides, such as providing company, particularly to
        those who are old or housebound, providing traffic and travel reports, weather
        forecasts etc. But these things are likely to be provided by the market.

4.33 The Government's Green Paper on the Review of the BBC's Royal Charter identified a number of broad public purposes which it proposed should apply to all of the BBC's services (TV, radio and on-line). Being publicly funded, the BBC represents a significant intervention in the market and so the Green Paper's five public purposes define what that intervention should be trying to achieve. In addition to the purposes defined by the Green Paper, Parliament has also set out a requirement on community radio that it should be primarily for the good of members of the public and be operated in order to deliver social gain. We believe this requirement to provide social gain represents a sixth public purpose for radio, and so we suggest that the public purposes for radio as a whole should be:

- Sustaining citizenship and civil society

    o Informing ourselves and others and increasing our understanding of the world through news, information and analysis of current events and ideas.

- Promoting education and learning

    o Stimulating our interest in and knowledge of a full range of subjects and issues through content that is accessible and can encourage either formal or informal learning; and

    o Providing specialist educational programmes and accompanying material to facilitate learning at all levels and for all ages.

- Stimulating creativity and cultural excellence

    o Enriching the cultural life of the UK through creative excellence in distinctive and original programming;

    o Fostering creativity and nurturing talent – using the licence fee as venture capital for creativity; and

    o Promoting interest, engagement and participation in cultural activity among new audiences.

- Representing the UK, its nations, regions and communities

    o Reflecting and strengthening our cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences; and

    o Making us aware of different cultures and alternative viewpoints through content that reflects the lives of other people and communities within the UK.

- Bringing the UK to the world and the world to the UK

    o Making UK audiences aware of international issues and of the different cultures and viewpoints of people living outside the UK; and

    o Bringing high quality international news coverage to a global audience through radio, TV and new media.

- Providing social gain

    o Serving individuals who are otherwise un-served by radio;

ο Facilitating discussion and the expression of opinion;

ο Providing education and training (other than to employees); and

ο Enhancing understanding of the target community and strengthening links within it.

4.34   In order to see whether these public purposes are appropriate for radio, we have mapped the public purposes suggested for the BBC by the Green Paper on to the list of purposes and characteristics that our research identified (Figure 7). There is a good fit between the two lists although, as suggested earlier, not all of the purposes and characteristics are public purposes (under Ofcom's definition).

Conclusions on public purposes

4.35   Having carried out this analysis, Ofcom agrees that the public purposes set out in the Green Paper are appropriate public purposes for BBC Radio.

4.36   However, we also believe these five public purposes, together with a sixth relating to social gain, can also be applied to radio as a whole and may provide reasons for intervening in the radio market. That is not to suggest that new obligations should be imposed on existing services, but that existing services already meet some of those public purposes.

4.37   While plurality of provision was only seen as important by a minority of respondents, there may be a case for intervention in the market in the future to ensure plurality of provision of some of the purposes, if they are not delivered by the market.

4.38   There are then two questions:

- What form of intervention, and which sector of the radio industry, is best suited to deliver each of the public purposes today?
- How is this likely to change in the future?

4.39   We return to these questions later, but first we consider Ofcom's strategic aims in the radio sector.

Figure 7: Mapping purposes and characteristics to public purposes

Legend: R = dark red fill, M = magenta fill

Purposes and characteristics	Public purposes (suggested for the BBC by the Green Paper)					
	Sustaining citizenship and civil society	Promoting education and learning	Stimulating creativity and excellence	Representing the UK, its nations, regions and communities	Bringing the UK to the world and the world to the UK	Providing social gain
Access						
Available on the move						
At times to suit me						
Free coverage of major events				R	R	
Quality						
Witty and entertaining						
Live/up to date	M					
Intelligent and independent	R	M	M		M	
Challenging, provoking and stimulating audiences	R	M	M		M	R
Originality and innovation			R			
Information						
Local news	R			R		
Weather						
National and international news	R				R	
Traffic and travel						
Community information				R		R
Learn and discover		R				R
Educational programming		R				R
Variety						
Different music types			M			
Different eras						
Music related discussion and information		M	M			
Live music			R			
New music			R			
Speech						
Interviews and debate	R		M	R	R	
Current affairs	R			R	R	
Drama			R	R		
Comedy			R			
Sport						
Consumer	R	M				
Documentaries	M	R		R	R	
Arts		R				
Presenter chat and banter						
Range of broadcasters	M			M		R
Community						
Local and regional				R		R
Children		R	M			
Special interest groups		R		R		R
Sense of identity	R					
Community involvement and participation	R	R		R		R
Ethnic and religious	R					
Social benefits						
Providing company						
Discovering and developing talent			R			
Promoting the Arts		R	R	R		
Promoting UK culture	R	R	R	R	R	R
Supporting the creative economy (incl. training)			R			R
Range of viewpoints	R			R		R

Ofcom's overall strategic framework for radio

A strategic framework

5.1 Our overall vision for radio is to allow for the market to provide as wide a range of services as possible to serve consumers' needs. This will allow us to withdraw from regulation wherever we can, while ensuring the provision of those things that society values but which the market may not provide fully. Our strategic framework for the future regulation of radio therefore has three elements:

- To enhance choice, diversity and innovation for consumers at the UK, national, regional, local and community levels. In the short-term this means we need to:

  ο ensure a wide range of services in the commercial sector and, in particular, the provision of local material, by regulating in the most effective way possible;

  ο encourage the development of more choice and competition by licensing new analogue and digital services and encouraging the growth of digital radio; and

  ο encourage the growth of a strong commercial sector, capable of extending range and choice and investing in the future.

- To secure citizens' interests through the provision of radio designed to meet public purposes. The public purposes will be met in different ways by different sectors, taking into account:

  ο the need to achieve a balance between the public and commercial sectors and clear boundaries between them;

  ο the amount of public funding and intervention required to meet the public purposes;

  ο the importance of plurality of provision of radio designed to deliver those purposes; and

  ο the need to encourage the development of a thriving community radio sector.

- To do this with as little intervention in the market as possible, consistent with meeting our objectives:

  ο based, where possible, on the range and quality of services provided to consumers, rather than intervening to determine methods of production;

  ο in a way that is as consistent as possible across media and across platforms; and

  ο adapting regulation to changes in the market and increasing levels of competition.

5.2   This framework is based on Ofcom's duties and principles, our research into what the public wants from radio and an analysis of the rationale for intervention in the radio market and the responses to the questions in phase 1 of this review. In response to the consultation, we received a broad range of answers, although there were very few detailed responses. In general there was support for the proposed strategic framework, although a number of respondents (including BECTU, the Music Business Forum and the RNIB) raised concerns as to how we could achieve our goals with little intervention in the market.

5.3   We therefore confirm our strategic framework as set out above and now consider what sort of radio landscape might develop in 10 to 15 years time, if this framework was to be followed.

What might the radio landscape look like in 10 to 15 years time?

5.4   Some of the changes we describe in this section are already underway. Digital radio brings new opportunities for both the commercial sector and the BBC, and a number of new stations have been launched. The growth in the UK-wide commercial radio audience over the past three years has been almost entirely due to the availability of new UK-wide digital stations.

5.5   In addition, there are opportunities for a vibrant new sector of community radio stations, a whole range of multimedia and interactive services, and subscription radio services.

5.6   Taking into account our statutory duties, the research we have undertaken and the consultation responses we have received, we believe that, in ten to fifteen years time, the radio market in the UK could consist of:

- A strong, independent BBC, providing a range of distinctive services which meet all of the public purposes of radio, as set out by the Green Paper on the future of the BBC. BBC radio services should aim to meet these public purposes across the schedule as a whole, including at peak times. But they should operate in a way that is mindful of their effect upon commercial and community radio. A number of new constraints will be required to ensure that this happens (see below).

- A multitude of community services at a very local level, providing social gain, community involvement and training for every community that wants and can sustain such a service, wherever they are in the UK.

- A wide range and diversity of local and regional commercial services, catering for local tastes and interests and providing the public purpose elements of localness, which listeners tell us they value – in particular (but not limited to) local news and information.

- A wide range of UK-wide commercial stations, offering new and innovative services, catering for a broad variety of tastes and interests, providing competition for the BBC and plurality of provision across all major programme genres and at a UK-wide and individual nation level. Just as digital television has evolved to provide channels catering for niche audiences, so should radio. Many of these niche genres are likely to be commercially viable only at a UK-wide level.

- A range of subscription radio services, offering programming that may not be supportable by traditional advertising methods.

- A range of temporary services (short-term RSLs), for example, catering for the needs of particular events (festivals, sporting events etc) and long-term restricted service licences – LRSLs – serving single sites.

- All of these services would be supported by multimedia services where viable, offering on-demand services, downloads, archive programming, text and graphical information.

- All of these services would be available where and when audiences want to consume them on devices which offer real consumer benefits, whether stand-alone radio devices, integrated multimedia communications devices or the internet.

5.7   We now consider the role of each sector of the radio industry in more detail.

The role of community radio

5.8   The arrival of this new sector offers the possibility for a wide range of vibrant new highly localised stations across the UK, allowing listeners to become much more involved in their radio stations than has previously been possible. They can be used for experimentation and to develop innovative new content and will provide an important training ground for talent. They will cater either for a particular geographic area or for a community of interest within a particular area.

5.9   Community radio, because of the way the legislation has been drawn-up and because it is non-profit making, is very much based on public purposes. Its primary purpose will be to represent the communities of the UK, particularly in terms of (although not limited to) the following purposes and characteristics:

- programmes for special interest groups;

- providing a sense of identity;

- providing for community involvement and participation;

- broadcasting community information;

- allowing for debate; and

- providing programming for different ethnic and religious communities.

5.10   In addition, community radio will help to achieve the public purpose of sustaining citizenship and civil society, by providing a range of viewpoints and by contributing to the plurality of broadcasters.

5.11   Community radio is intended to be clearly distinct from commercial broadcasting and the BBC. In order to ensure this, the Government has imposed some specific 'characteristics of service' requirements which such stations must adhere to. In particular they must:

- be primarily for the good of members of the public or particular communities and be operated in order to deliver social gain, rather than for commercial reasons;

- serve one or more communities (a neighbourhood or people who have one or more interests or characteristics in common);

- not be provided in order to make a financial profit, and use any profit produced to support the service or for the social gain of the public or the target community;

- offer members of the target community opportunities to participate in the operation and management of the service; and

- be accountable to the target community.

5.12 Central to the community radio legislation is the concept of social gain - a broad term to encompass the delivery of tangible benefits to communities beyond the simple delivery of broadcast programming. The Community Radio Order contains some specific definitions of social gain, which we have included as our proposed sixth public purpose for radio in section 4.

5.13 Community stations are generally only licensed to cover small geographic areas. Even so, there is currently a technical limit to the number of new community radio services which can be licensed overall due to the lack of suitable frequencies.

5.14 In time, it is possible that changes such as an end to simulcasting of existing radio services on analogue and digital platforms could free-up spectrum that will create more space for new community radio stations.

The role of local and regional commercial radio

5.15 Local commercial radio (including regional radio) is designed to cater for local tastes and interests by offering a range of different formats as appropriate to different areas, together with local news and information. We see this role continuing in the future, although the way it is regulated may change.

5.16 There are currently 275 analogue commercial local radio licences in operation (with more already licensed and preparing to launch), making commercial local radio available to almost everyone in the UK. The size of local radio stations, in terms of population coverage, varies from just a few thousand in areas such as Shaftesbury or Oban, to London-wide stations which cover a population of over 10 million adults.

5.17 The choice of stations is greater in areas of high population, although each station covers a large number of people. In less populated areas, there is less choice, but local stations serve far fewer people. Local radio allows for the possibility of more interaction with listeners than UK-wide radio and helps to engender in listeners a sense of belonging and connection to a particular area.

5.18 The local character and content of local stations is paramount and will become increasingly important in the future as competition from other sectors increases further. It is their local content, rather than, say, the music they play, which will distinguish these stations from UK-wide stations and help them to build and retain audiences.

5.19 While commercial local radio offers many valuable services to its listeners, such as sports news and coverage, traffic and travel news, and local weather bulletins, its public purposes (under Ofcom's definition) are generally more limited. Its main public purposes relate to sustaining citizenship and civil society and representing the nations, regions and communities of the UK. Within these broad public purposes, the primary purposes and characteristics of the majority of local stations are:

- the provision of local news (alongside UK-wide and international news);
- providing a sense of local identity; and
- serving local communities.

5.20 However, some local stations have additional purposes and characteristics included in their Formats, such as the need to broadcast:

- live music;

- interviews and debate;

- programmes for special interest groups;

- programmes for ethnic and religious groups

- community involvement; and

- different types of music.

5.21   Much of the future of commercial local radio will therefore be in the hands of the market rather than the regulator. It will be in stations' own interests to deliver local content as that will be their main attraction for listeners. However, some intervention may still be required to ensure the maintenance of those public purpose elements of local programming which our research has shown are most important to listeners, both as consumers and citizens.

5.22   So, for example, it is likely that the provision of local news will remain a key requirement of local stations, while in due course, as the number of UK-wide commercial stations grows and those stations are able to cater for different musical tastes, it may be that the regulation of local radio Formats can be relaxed with regard to such things as the type of music they play.

5.23   DAB digital radio offers the opportunity for an expansion in the number of local stations although, to date, many of the stations being offered on local multiplexes are quasi-national stations. Some of these quasi-national stations have requirements to introduce local programming when digital radio take-up reaches a certain level.

5.24   Section 7 sets out Ofcom's specific duties with regard to the local content and character of local analogue commercial radio, and considers how this might be regulated in future.

The role of national (UK-wide) commercial radio

5.25   National commercial radio's role in the UK has been relatively limited to date due to the lack of spectrum and the fact that two of the three analogue stations are only available to most listeners on medium wave.

5.26   This picture has changed somewhat in the digital world, with five new UK-wide stations available on DAB, as well as quasi-national stations on a range of local DAB multiplexes, while a large number of stations are available nationally on digital television platforms and the internet.

5.27   Ofcom has a statutory duty to ensure "the availability throughout the United Kingdom of a wide range of … radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests."

5.28   We believe that one of the best ways to achieve this duty is by ensuring that the market can make available a wide range of UK-wide commercial radio stations. However, we believe it should be for the market to determine how many UK-wide radio stations there should be; there is no optimal number of stations which can be set by the regulator.

5.29   It is worth noting that, while there is already a wide range of stations, catering for different tastes and interests available on a number of platforms such as the internet or digital television, the choice on analogue radio is very limited and is still relatively

limited on DAB. For example, on DAB a jazz station is only available to 12% of the population, a country music station to 21%, a classic rock station to 20%, and a gay station to 22%. Some genres, such as 1950's rock'n'roll or gospel music are not provided for at all on DAB.

5.30　There are a number of genres which are not represented at all on digital radio broadcast platforms, but which have a potential audience. A recent survey for the Observer newspaper asked people what was their favourite kind of music (figure 8). This showed that audiences have an appetite for other types of music than they can currently obtain on DAB digital radio on a full-time digital station, such as folk music, world music, heavy metal or reggae.

5.31　This lack of choice on DAB applies to speech stations as well. There are only two UK-wide commercial DAB stations providing speech output – talkSPORT (sports programming) and Oneword (books, plays and comedy). There are no UK-wide commercial speech stations offering news, business news, lifestyle programming or documentaries. Neither are there any UK-wide commercial DAB digital radio stations for minority or specialist audiences, such as the many Asian communities, children or the gay community.

5.32　This analysis does not try to suggest what the right level of choice is, but simply serves to demonstrate that a lot more choice is possible than is currently provided.

5.33　We believe that the extension of choice is in the interests of consumers and citizens.

Figure 8: Which of the following is your favourite kind of music?
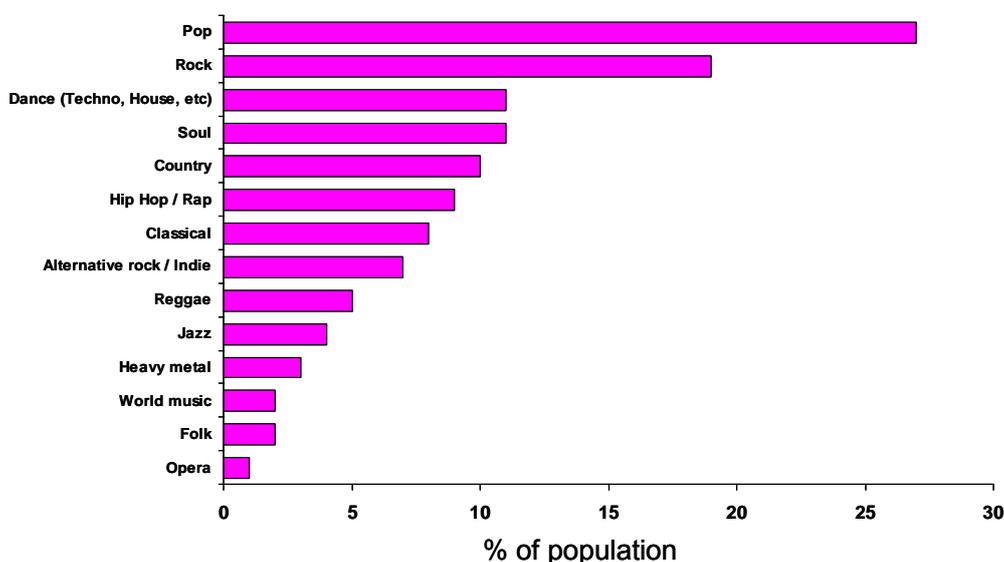
Source: Observer Newspaper / ICM, June 2005

The role of the BBC

5.34　While not, on the whole, regulated by Ofcom, the scale and impact of the BBC means that no review of radio in the UK would be complete without consideration of the BBC's significant role in radio.

5.35　When the BBC was the only radio provider the justification for the BBC providing services which catered for every type of programming and for mass as well as niche

audiences was obvious – radio was publicly funded, there was no competition and so BBC radio needed to provide for all listener needs. Even when commercial radio was introduced, the BBC faced little head-to-head competition.

5.36   We believe the BBC should remain a strong, independent force in radio in the future, providing a wide range of services offering something of value to all listeners. But the justification for its approach will have to change in a digital environment where listeners have a vastly increased choice of listening. The need for change has been recognised by both the BBC itself and by the Government. In the BBC's document, Building Public Value, and in the Government's Green Paper on the BBC, the role for the BBC is described as fulfilling specific purposes, as set out in section 4.34. These purposes are designed to benefit society as a whole.

5.37   Establishing the BBC's role in terms of purposes is an important step and we welcome the Green Paper's suggestions. But much will depend on the detailed implementation. How then should the BBC ensure that it fulfils the public service purposes which are eventually established?

5.38   Tim Gardam's review of the BBC's digital radio services suggested distinctiveness as a key measure of the BBC's provision of public purposes. It stated that "*if a BBC service is not distinctive, then it is practically inevitable it will cost far more than a commercial competitor without delivering significant additional benefit. It is very hard to see the public value in that.*" We believe these conclusions apply to analogue radio services as much as they do to digital radio services.

5.39   The Green Paper sets the objective that all BBC radio services should strive to fulfil the full range of public purposes. We welcome this proposal and note that it will be important to ensure that material designed to fulfil public purposes appears at all times of the day, including peak times such as breakfast and drive time, rather than being confined to periods when fewer people are listening.

5.40   The following additional points were made in Ofcom's response to the Green Paper, but are worth repeating here.

a. New service licences

5.41   The specific details of how BBC radio services fulfil public purposes will need to be established by the new BBC Trust and written into the proposed new service licences for each separate radio service.

5.42   We welcome the proposals to draw up such service licences as they should provide an opportunity for a more transparent clarification of the BBC's duties and responsibilities. This process has begun already through publication of the BBC's Statements of Programme Policy which set out the output of each BBC service. But the new arrangements will, for the first time, allow a proper link to be formed between the underlying goals of the BBC's radio services – their public service purposes - and the means by which these are delivered by each individual BBC station which will be codified through separate service licences for each station. Furthermore, the publication of the service licences and the creation of the BBC Trust will allow better accountability and assessment arrangements to be established since the Trust will report publicly on how stations are meeting public purposes, where they are falling short and how remedial steps will be implemented.

b. The effect of the BBC on commercial rivals

5.43   A number of respondents to our consultation made the point that the BBC's radio services have a negative impact on their commercial rivals. To some extent this is simply the result of competition for listeners which is both healthy and beneficial. But as a result of secure licence fee funding, BBC radio stations have station budgets many times higher than commercial competitors. This is particularly so for the BBC's digital stations which can sustain expenditure that commercial providers in search of a viable return for shareholders (at least in the medium term) would find difficult to justify. This leads to a potential danger that over time commercial rivals will not be able to successfully establish themselves in the market, leading to the BBC having a near-monopoly in certain segments of the overall radio market.

c. Market impact assessments

5.44   It is vital, therefore, that the impact of the BBC's radio services on the overall market is carefully considered. This is now widely accepted. The Government's Green Paper on the BBC stated that whenever a proposal is put together for a new service, or the extension of an existing one, a market impact assessment should be conducted. In the case of a new service, the Green Paper proposed that this was done by Ofcom. We welcome the Green Paper's proposal that Ofcom should carry out market impact assessments of new BBC services.

5.45   However, we do not believe that Ofcom's role should be limited solely to new services – since a significant change (or changes to) an existing service can have as important a market impact as an entirely new service. Furthermore, there is a question over who defines what is or is not a new service. Our view is that, where Ofcom reasonably considers that a service launch or change may have a significant market impact, Ofcom needs to be able to assess the market impact.

5.46   Further details of Ofcom's proposals in regard to market impact assessments are set out in Ofcom's response to the Green Paper.

d. Ex-ante competition powers

5.47   Another means of ensuring that the BBC does not have a disproportionate impact on commercial radio stations is to ensure that the BBC takes into account competition considerations in determining the scale and scope of its activities. In Ofcom's response to the Green Paper, we suggested that the BBC Agreement should contain a general obligation that the BBC should have due regard to its effect on competition.

5.48   We also recommended that the BBC Agreement should set out arrangements for allowing an independent competition authority (such as the Office of Fair Trading or Ofcom itself) to oversee rules governing the behaviour of the BBC to prevent any distorting effects on competition. Further details of how these proposals would work in practice are set out in Ofcom's response to the BBC Green Paper.

5.49   There are numerous ways in which this could be relevant – for example in the BBC entering into exclusive content deals, where the rights owner would have preferred non-exclusivity, or where exclusivity is insisted upon across platforms (i.e. exclusivity for radio demanded if television coverage was to be provided), or where there are links to commercial content providers from BBC online services.

5.50   In general we believe that commercial activities should not impinge upon the content of radio services. While the BBC does not receive revenues from commercial entities in respect of its public services, there is a potential risk that commercial references

on BBC content could have an impact and risk not only distorting editorial content but also providing an effective means of advertising avoiding the commercial sector.

e. The BBC's radio archive

5.51   We welcome the BBC's plans to consult on making its radio archive available on a commercial basis to other radio broadcasters.

The importance of plurality and the possibility of a PSP for radio

5.52   The public purposes which UK-wide commercial radio currently fulfils are largely achieved without intervention. The purposes and characteristics of UK-wide commercial radio include the coverage of major sporting events, the provision of national and international news, the broadcasting of different music types and live music, promoting the arts and supporting the creative economy.

5.53   But it is worth considering the importance of plurality in the provision of UK-wide radio services, particularly as regards the public purpose of sustaining citizenship and civil society, where a plurality of provision may be particularly important. One of Ofcom's statutory duties is "the maintenance of a sufficient plurality of providers of different … radio services."

5.54   It is notable that for most of the public purposes defined in section 4, the BBC tends to be regarded as the only significant provider of any real scale in radio.

5.55   In Ofcom's review of Public Service Television, we suggested that the plurality of provision of public service broadcasting would remain important in the digital age and that the provision of public service programming should not become the sole domain of the BBC. We suggested that such programming could continue to be provided by Channel 4 (although the broadcaster may need some form of public funding in the future to maintain its public service remit), but we also floated the idea of a Public Service Publisher, which would commission content not just for television but for emerging multimedia platforms.

5.56   There are a number of reasons why it may be desirable to have a wider range of providers of radio which fulfils public purposes.

- A new provider would help create plurality in the supply of radio which fulfils many of the public purposes, for example in terms of providing a new UK-wide forum for debate to help sustain citizenship and civil society, or in providing programmes for children.

- The existence of competition in these areas could also benefit the BBC by encouraging it to maintain quality and innovate, just as the presence of Classic FM has undoubtedly had an influence on the output of BBC Radio 3, even though the two stations are very different in style and approach.

- A new provider could secure a selection of a different range of radio content which in turn could attract new audiences to radio which served public purposes. It is notable, for instance, that the existing audience for Radio 4 is heavily skewed towards older age groups. A new provider could attract a wider range of audiences in the same way that Channel 4 has successfully attracted a younger audience to some types of public service television programming.

5.57   In our research, many participants struggled to see the need for plurality in radio provision, but a minority of the most critical listeners, and especially some Radio 4

listeners, did feel that the introduction of additional direct and high quality competition could help the BBC to raise its standards.

5.58   Ideally, such a service would be established commercially, using spectrum available on digital radio. There is little commercial competition to the BBC's speech radio services at the moment, although stations such as talkSPORT, Oneword and LBC compete with Radio Five Live and Radio 4 to some extent. Similarly, in Scotland, Wales and Northern Ireland, there is no national competition to the BBC's national services in each nation, where the advent of devolution has increased the importance of services which can speak to each nation as a whole. The limited extent of competition is due to a variety of reasons, including the scarcity of spectrum, which has meant that commercial radio licences have tended to be awarded to music stations. But this may change as digital technology allows more services to be offered.

5.59   However, if commercial competition does not emerge across the broad range of radio genres, particularly as regards the public purposes identified here, it may be desirable to consider whether public funding should be provided, perhaps as part of a new Public Service Publisher (PSP).

5.60   We recommend that this should be considered as part of a wider programme of work looking at how plurality in the supply of public service programming can be secured.

The role of pay radio

5.61   Pay radio is an idea that until recently has had few advocates in the UK. Why, they argue, would people pay for radio services when there is already a wide range of radio services available free-to-air; when the BBC offers a range of high quality, advertising-free services and when there is no premium content not already available (unlike sport and movies on television)?

5.62   However, the success of satellite subscription radio in the United States, in the form of XM Radio and Sirius Radio, is providing pause for thought (although critics claim this success is due to what they see as too many advertisements on American radio and the lack of the BBC).

5.63   Our research (Appendix A) tested the idea of pay radio. Initially, respondents tended to associate the idea of paid-for radio services with the possible entry of Sky into the radio market. This provoked mixed emotions. The principal objection was that many feared that listeners would have to start paying for services they have traditionally received for free - football coverage was the main example cited, given the precedent of multichannel television.

5.64   There were, however, a number of highly positive reactions, especially from some of those with access to digital television, some of whom thought a new player would bring much needed innovation into the radio market.

5.65   In the quantitative research, participants were asked which one of a range of different new services they would most consider paying a subscription of £3 a month for (figure 9). The two clear leaders were stations dedicated to particular music types (21%) and sports commentary (14%).

5.66   Although results should be interpreted with extreme caution (these figures would not necessarily lead to similar take-up figures), it is interesting to see some level of interest given that listeners do not currently pay for radio content. Indeed 56% of respondents expressed an interest in some form of pay radio.

Figure 9: The appetite for radio subscription services

Q: Which of the following services which you canɔget at the moment would you be willing to pay a subscription (similar to Sky Digital) in the region of £3 per month ?

Service	%
Dedicated to particular music types	21%
Sports commentary	14%
24-hour news	9%
Dedicated comedy	8%
Dedicated drama	4%
None	44%
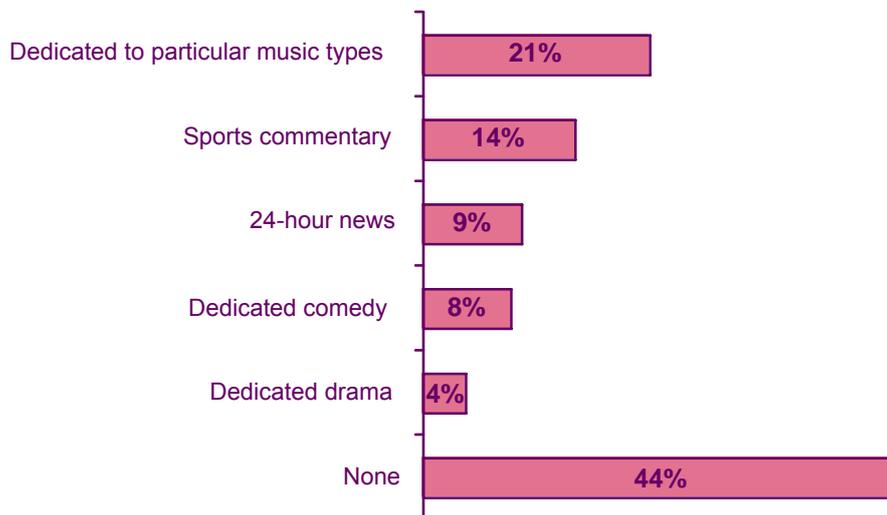
Base: all UK adults aged 16+ (1037)
Source: TKA April 2005

5.67   In the United States, XM Radio provides over 150 digital national radio stations covering a wide range of genres. These stations are subscription stations and the size of the potential market in the US is over four times that of the UK, which means that it may not be commercially viable to provide free-to-air (or even subscription) versions of such genres in the UK. Nevertheless, it is instructive to look at the range of stations offered, which, as at Autumn 2005, includes 7 country music stations, 5 jazz stations, 3 classical music stations, 4 dance music stations, 4 business news stations, 3 world music stations, 2 children's stations, 4 news and discussion stations, 13 rock stations, 7 urban music stations, show tunes, film music, 13 sports stations and 15 talk stations, including documentaries, books and drama, archive, chat, African-American stations. Each of the music stations caters for a different type of music within its genre. For example, the 5 jazz stations cover different types of jazz – traditional jazz, smooth jazz, modern jazz, blues, and American standards. Sirius provides a similar level of variety.

5.68   There is no reason why such a service could not develop in the UK and provide considerable consumer benefits.

The role of restricted service licences (RSLs)

5.69   Short-term RSLs are low power services intended for reception over a fairly limited area for a normal maximum of 28 days. They tend to be of two types:

• groups wishing to apply for a commercial or community radio licence to allow them to test the water and gain experience; and

• stations linked to a particular event, sports coverage, a religious festival (e.g. Ramadan) or other short-term services.

5.70   Long-term RSLs are issued to stations wishing to serve a non-commercial establishment which occupies a single site (e.g. university campus, hospital). The majority are licensed on AM frequencies, and coverage is restricted to the site only.

5.71   In future we will continue to license both types of RSL, although in the case of short-term RSLs there will be less need for stations to trial new services and it is likely that the main use of the temporary licences will be to provide services linked to particular events or festivals. For both types of licence, the available frequency resource will decrease (and thus so will the number of licences we are able to issue) as more community radio services are licensed.

A range of multimedia and interactive services

5.72   All of the radio sectors described above would be able to be supported by a wide range of multimedia services where viable, offering on-demand services, downloads, archive programming, text and graphical information.

5.73   Both the BBC and the commercial sector have already begun to develop such services and they are having considerable early success. If radio is to grow and flourish in the future it will need to adapt to changing consumer expectations and develop and deliver services – sound, text, graphics and video – to portable and mobile devices, as well as fixed, on-demand.

5.74   The role of the BBC in this area will continue to be important as a catalyst and innovator, as well as finding new ways to provide valued services to all licence payers in ways and at times that suit them. However, the considerations that should apply to BBC radio's linear sound services should also apply to all of the BBC's multimedia and interactive services, in terms of public purposes, distinctiveness, service licences and market impact assessments.

What needs to happen to allow these developments?

5.75   The radio industry itself will need to innovate and adapt if it is to take advantage of the opportunities suggested by this vision of future radio provision, but there are some specific things that Ofcom and Government can do to help facilitate the benefits that this vision can deliver.

5.76   Digital radio provides many benefits for listeners, including greater choice of stations, easier tuning, more features (such as the ability to pause and rewind live radio), and the possibility of data services. In the future it is likely that the vast majority of radio listening will be to digital platforms, such as DAB, radio via digital television and the internet. While Ofcom remains platform and technology neutral, DAB digital radio is currently the only platform which offers the benefits of digital radio free-to-air, to mobile and portable receivers, and which can guarantee a range of local and UK-wide services to the vast majority of the UK. As such it is important that we put in place the conditions to allow DAB digital radio to expand and thrive in the digital age, without precluding the development of other platforms over time.

5.77   Ofcom has set-out in the accompanying document, *Radio – Licensing policy for VHF Band III, sub-band 3*, proposals to release further spectrum to provide for additional UK-wide digital radio services and to fill-in the gaps in existing local digital radio provision. The next section of this document considers that paper's conclusions on the licensing policy for that spectrum.

5.78   The regulation of commercial and community stations might need to adapt, both in the short-term and in the long-term to take account of the changing radio market. In phase 1 of this review we suggested a move from input regulation (how programmes are made) to output regulation (what the listener hears) but we recognised that regulation may have to adapt further in the long-term. In some areas regulation may be able to be relaxed; in others new regulation may be required – for example to ensure the provision of local programming in a digital world. We consider these questions in section 7.

Conclusion on Ofcom's strategic framework

5.79   In this section, we have confirmed Ofcom's strategic framework and set out a vision of how this framework might allow the market to develop over the next 10 to 15 years. In particular this would allow the opportunity for the development of a number of new UK-wide commercial stations, catering for different tastes and interests; a wider range of community radio stations and the opportunity for many new data and multimedia services.

5.80   Much of this development will require the radio industry to innovate and adapt to these new opportunities, but there are a number of steps that Ofcom and Government will need to take to facilitate this strategic framework, including the allocation of spectrum in VHF Band III, sub-band 3 and changes to the way that commercial radio is regulated.

5.81   Ofcom believes the BBC should remain a strong, independent force in radio in the future, providing a wide range of services offering something of value to all listeners. We welcome the Green paper's proposals on public purposes, the introduction of service licences and market impact assessments for new services. We would also argue that market impact assessments should be carried out in relation to significant changes to existing services and that Ofcom should be given ex-ante competition powers over the BBC in a limited set of circumstances.

5.82   We also recommend that, if the market does not provide plurality of provision of radio meeting public purposes, particularly around sustaining citizenship and civil society, the case for further public intervention in the market should be considered. This could be undertaken as part of a wider programme of work looking at how plurality in the supply of public service programming across media can be secured.

Licensing policy

Introduction

6.1 This section summarises Ofcom's proposals for allocating additional spectrum in VHF Band III to local and national multiplexes. These proposals are set out in full in a separate document; *Radio – Licensing policy for VHF Band III, sub-band 3*. Those interested in the issues relating to the spectrum should refer to that document for a comprehensive and detailed discussion and respond to that consultation. The discussion in this section is a summary by nature and does not supplement the discussion in the *Radio – Licensing policy for VHF Band III, sub-band 3* document.

6.2 This section also discusses some other questions of licensing policy, and some of the range of technologies that are available to take radio into its digital future.

The availability of VHF Band III spectrum

6.3 In phase 1 of this review, we noted that there were potentially four or five blocks of DAB-compatible spectrum for allocation in VHF Band III, but that the availability of that spectrum was subject to the clearance of the spectrum of existing users and international clearance by the Regional Radio Conference in mid-2006.

6.4 Following further work, our present expectation is that four blocks should be made available. This is subject to the outcome of the Regional Radio Conference in 2006 and international frequency clearance. If in time a fifth block also becomes available, Ofcom will consult separately on policy towards that block, in light of circumstances at the time.

Providing the opportunity for a local DAB multiplex to every area of the country that does not already have one

6.5 As we stated in phase 1 of this review, we think that providing the opportunity for a local digital multiplex in every part of the UK where this is commercially viable is an important public policy goal. This will help to ensure that the public purposes of radio – in particular the provision of local news and information - can continue to be met in the digital age, even if analogue radio is switched off at some stage. It is important to note that the aim of this particular policy is not to ensure that every existing and proposed analogue local station – whether commercial or community – has the opportunity to broadcast digitally (although the policy is to ensure that all of the BBC's stations are carried on DAB). We consider that question separately below.

6.6 In order to provide the opportunity for a local DAB multiplex to every part of the UK that does not currently have one, we propose that three blocks of spectrum should be allocated to provide local multiplexes in areas that presently do not have local digital services.

6.7 In phase 1 we set-out a proposed list of areas for future DAB multiplexes. In refining that list, we have taken into account local affinities and specific requests made in consultation responses to amalgamate areas as well as population size which affects the likely viability of multiplexes. We have tried to balance this against making multiplex areas so large that they are no longer attractive to the local stations within the area. For these reasons, we now propose to amalgamate the following planned

multiplexes: the North Wales Coast with North West Wales, Pembrokeshire with Carmarthenshire, York with Scarborough, Carlisle with West Cumbria, and Ceredigion with mid-Wales.

6.8   We continue to include a multiplex for every area of the UK, although we take the point made by SRH, that some of the smallest areas, in terms of population (such as the west of Scotland or the Orkneys and Shetlands), may never be commercially viable for DAB local multiplexes. We leave this question open for now, although it may be that any solution for smaller commercial and community stations may also be more appropriate for these largely rural areas rather than a local DAB multiplex. We consider possible complements to DAB below.

6.9   In Northern Ireland we hope to be able to provide at least one additional local multiplex although this is subject to discussion with the authorities in the Republic of Ireland.

6.10   On the west coast of Scotland and the Western Isles, we have proposed a single multiplex area. It would be possible to split the area into smaller licences as there is no shortage of frequencies in that area. However, even as a single licence it may not be commercially viable and other digital solutions may be more appropriate for this area. Nevertheless, we include a DAB multiplex as an option at this stage.

6.11   In Kent, we hope to be able to extend the existing Kent multiplex to the coast, possibly using a new frequency, or enhanced rights to use of the existing frequency. Failing this we plan to licence a separate Kent coast multiplex.

6.12   We will continue to investigate the availability of spectrum to provide a multiplex for the Channel Islands.

6.13   The revised list of proposed additional local multiplexes is shown in figure 11 with a map of the areas to be covered in figure 10.

6.14   In addition to licensing these new areas, we will look again at the licensed areas of existing multiplexes, to determine whether there is any scope for amending them, at the margins, to cover areas which would remain un-served under the plan set out above (for example to the un-served parts of Shropshire).

6.15   This proposal will allow for all BBC local and nations' stations to be carried on DAB.

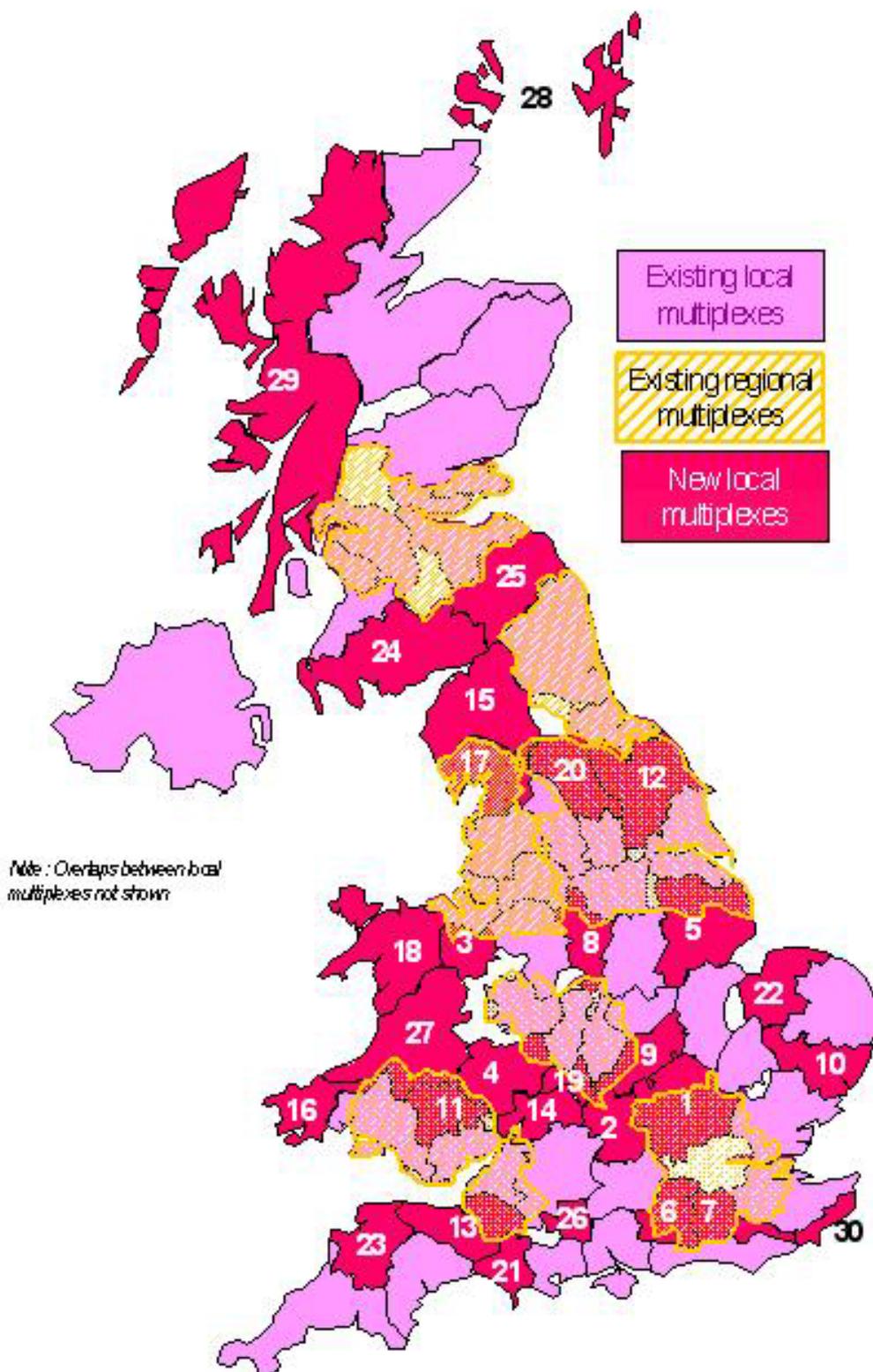**Figure 10: The map of existing and proposed local DAB multiplexes**

Figure 11: Planned additional DAB digital radio local multiplexes

	Licence area	BBC stations carried	Est. pop. coverage
1	Luton, Bedford & Milton Keynes	BBC Three Counties Radio	1,082
2	Oxfordshire & Aylesbury	BBC Radio Oxford	767
3	Chester & Wrexham	BBC Radio Wales, BBC Radio Cymru (plus any new BBC Radio Cheshire)	668
4	Hereford & Worcester	BBC Hereford & Worcester	642
5	Lincoln	BBC Radio Lincolnshire	639
6	Guildford	BBC Southern Counties Radio	536
7	Reigate & Crawley	BBC Southern Counties Radio	417
8	Derby	BBC Radio Derby	400
9	Northampton	BBC Radio Northampton	393
10	Ipswich & Bury St Edmunds	BBC Radio Suffolk	375
11	Heads of South Wales Valleys	BBC Radio Wales and BBC Radio Cymru	350
12	York & Scarborough	BBC Radio York	349
13	Somerset (Taunton & Yeovil)	BBC Somerset Sound	332
14	Gloucester & Cheltenham	BBC Radio Gloucester	324
15	Carlisle & West Cumbria	BBC Radio Cumbria	271
16	Pembrokeshire & Carmarthenshire	BBC Radio Wales and BBC Radio Cymru	267
17	Morecambe Bay	BBC Radio Cumbria and BBC Radio Lancashire	239
18	North Wales Coast & North West Wales	BBC Radio Wales and BBC Radio Cymru	234
19	Stratford-upon-Avon	BBC Coventry & Warwickshire	190
20	Harrogate	BBC Radio York	177
21	Weymouth & Dorchester	(the proposed BBC Radio Dorset)	107

22	Kings Lynn	BBC Radio Norfolk	96
23	North Devon (Barnstaple)	BBC Radio Devon	94
24	Dumfries & SW Scotland	BBC Radio Scotland and BBC Radio nan Gaidheal	87
25	Scottish Borders	BBC Radio Scotland and BBC Radio nan Gaidheal	82
26	Salisbury	BBC Wiltshire Sound	75
27	Ceredigion & Mid-Wales	BBC Radio Wales and BBC Radio Cymru	72
28	Orkney & Shetland	BBC Radio Scotland and BBC Radio nan Gaidheal	42
29	Western Scotland	BBC Radio Scotland and BBC Radio nan Gaidheal	40
30	Kent Coast	BBC Radio Kent	n/a
31	Northern Ireland	-	1,330

6.16   We propose that all of these local DAB multiplexes will be licensed under the terms of the Broadcasting Act.

6.17   The proposed next steps for licensing these multiplexes is shown in the accompanying document *Radio – Licensing policy for VHF Band III, sub-band 3*. The advertising of licences could begin in late 2006.

A further UK-wide DAB multiplex

6.18   One of the main aims of Ofcom's strategic framework for the future of radio, is to allow the market to make available a wide range of UK-wide commercial radio stations. However, we believe it should be for the market to determine how many UK-wide radio stations there should be, there is no optimal number of stations which can be set by the regulator.

6.19   In phase 1 of this review we proposed to allocate one or two blocks of spectrum to further UK-wide DAB multiplexes.

6.20   The allocation of spectrum in VHF Band III, sub-band 3, is considered in a separate report published alongside this one. Its main conclusions are:

- Only four blocks of spectrum are expected to be available for allocation and licensing at this stage.

- As noted above, we propose to allocate three of the four blocks to local multiplexes to fill-in the gaps in existing coverage

- We propose to allocate the fourth block to a new UK-wide DAB multiplex.

- We propose to allocate that multiplex under the terms of the Broadcasting Act.

Is a digital migration path for all stations desirable?

6.21   While we are not, at this stage, proposing a digital switch-over plan for radio akin to that proposed for television, there are a number of reasons why a digital migration path for all existing and planned analogue stations may be desirable in the long run.

The benefits of digital radio

6.22   Digital radio offers consumers a number of benefits, including more choice, better reception, new functionality (such as the ability to pause and rewind live radio) and new multimedia and interactive services. More choice is made possible by the attributes of the digital platforms, but for the last four of the benefits listed to be of most use to consumers, the benefits need to apply to all of the stations that consumers listen to now together with any new stations. So it may be desirable for all existing and planned stations, BBC, commercial and community, to be available on digital platforms.

6.23   From the broadcasters' point of view there are also benefits of being able to broadcast on digital radio; digital broadcasting allows each station to offer new data and multimedia services to listeners and gain access to new revenue streams, such as downloading.

The effects of remaining in an analogue world

6.24   Many of those stations not currently available on DAB are worried that as digital listening increases, listeners will be unwilling to turn back to analogue radio, even where the option exists on their receiver. They fear that stations left broadcasting only on FM will face a slow decline, similar to that seen by some AM stations today (although it is worth noting that some AM stations remain popular).

6.25   However, it is important to note that switching off analogue radio broadcasting could also have significant costs. It would be important to do a comprehensive cost-benefit analysis before making any decision.
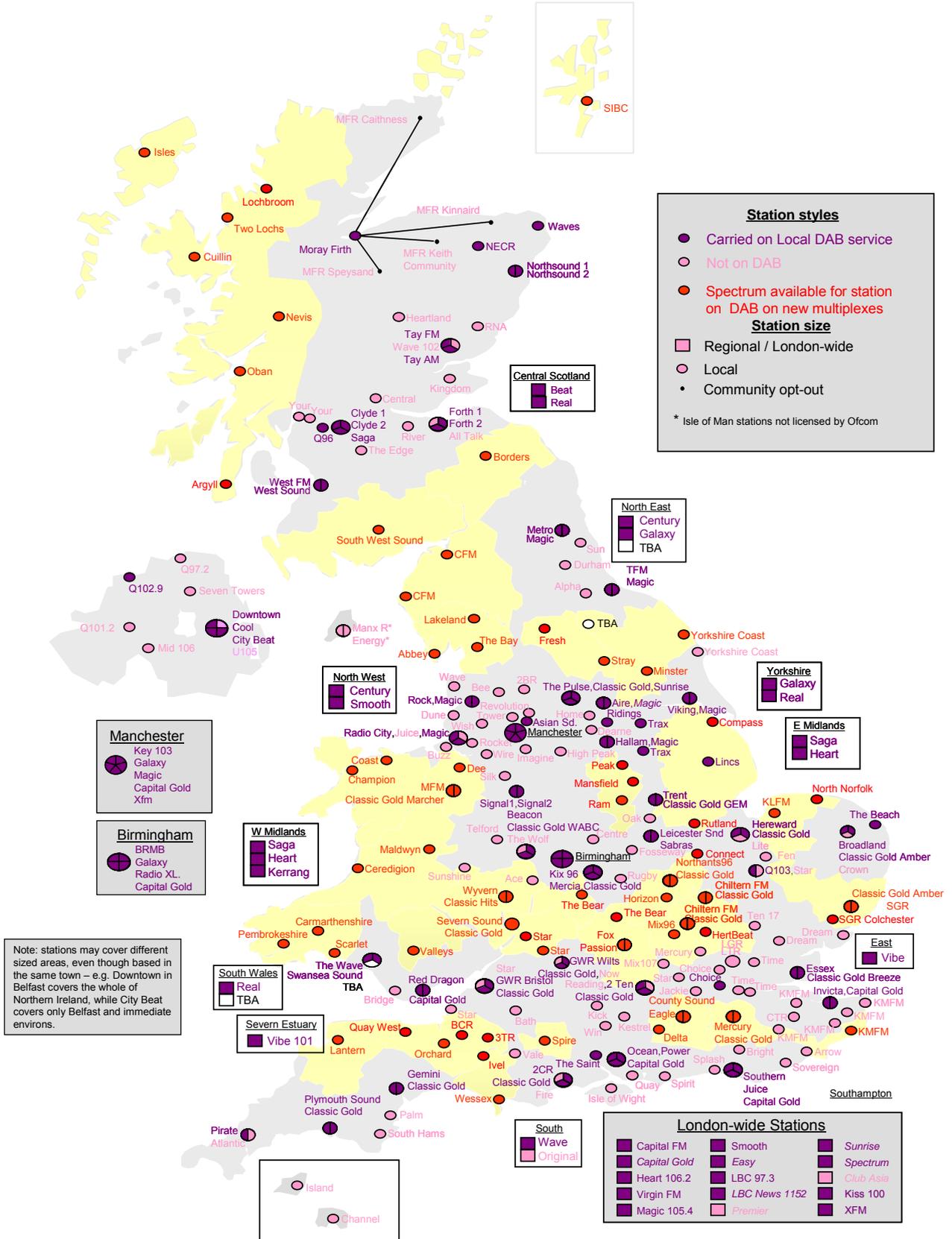
The digital options for small commercial and community stations

6.26   At present, of the 295 analogue commercial services currently on air or about to go on air, 131 currently broadcast on DAB. These are shown in purple on the map in figure 12.

6.27   The plan to provide a local DAB multiplex in every area of the UK would allow many of the stations not currently on DAB to start broadcasting on DAB. It is not possible to say exactly how many actually would broadcast on DAB, as that is a decision for the stations themselves and is subject to them negotiating with the relevant local multiplex licence holder. It is also important to note that no commercial local station has an automatic right of carriage on a local digital multiplex. Our best estimate is therefore based on the number of existing stations that broadcast within the areas which currently have no local multiplex and which the three new spectrum blocks are designed to fill. These areas are shown in yellow on the map in figure 12 and the stations within those areas are shown in red. There are around 74 such stations – the exact number will depend upon the precise boundaries of the new multiplexes and these have not yet been fixed.

6.28   This leaves around 90 stations which are not on existing local multiplexes and are outside the areas of the proposed new multiplexes. These are shown in pink on the

map in figure 12. Again, it is difficult to be precise about the number as some of them may be able to secure carriage on their local DAB multiplex at some future date if they decide to do so and if there is capacity. However, it is certain that not all of these will be able to secure carriage on existing multiplexes and a significant number will remain without access to a DAB multiplex.

6.29   It is worth noting that the 131 stations that are already on DAB, plus the 74 stations that could gain access under the proposal to fill in the gaps, currently account for around 95% of commercial radio listening. The remaining 90 stations therefore currently account for around 6% of commercial radio listening, or around 2% of total

Figure 12: Stations' potential for carriage on DAB

Station styles

- ● Carried on Local DAB service
- ● Not on DAB
- ● Spectrum available for station on DAB on new multiplexes

Station size

- ■ Regional / London-wide
- ● Local
- • Community opt-out

* Isle of Man stations not licensed by Ofcom

Central Scotland
Beat
Real

North East
Century
Galaxy
TBA

North West
Century
Smooth

Yorkshire
Galaxy
Real

E Midlands
Saga
Heart

Manchester
Key 103
Galaxy
Magic
Capital Gold
Xfm

Birmingham
BRMB
Galaxy
Radio XL.
Capital Gold

W Midlands
Saga
Heart
Kerrang

South Wales
Real
TBA

Severn Estuary
Vibe 101

East
Vibe

South
Wave
Original

Note: stations may cover different sized areas, even though based in the same town – e.g. Downtown in Belfast covers the whole of Northern Ireland, while City Beat covers only Belfast and immediate environs.

London-wide Stations

Capital FM	Smooth	*Sunrise*
Capital Gold	*Easy*	*Spectrum*
Heart 106.2	LBC 97.3	*Club Asia*
Virgin FM	*LBC News 1152*	Kiss 100
Magic 105.4	*Premier*	XFM

6.30   radio listening. This does not mean it is unimportant to consider a digital migration path for the remaining stations, as these stations are highly valued by their listeners, but the benefits of allocating more Band III spectrum to these stations, beyond that proposed above, needs to be weighed against the benefits of alternative uses.

6.31   Of these 90 stations, there are:

- 7 in Northern Ireland and 2 in the Channel Islands where it is not yet certain that spectrum will be available, but which could be accommodated on new local multiplexes should such spectrum become available;

- 20, which are in areas where there is an existing local multiplex which has spare capacity. These stations have chosen not to seek DAB capacity to date either because they regard it as not financially viable for them or because the multiplex covers a much larger geographical area than the stations do on analogue and the station does not wish to cover this larger area;

- 61 which are in areas where there is already a local multiplex, but there is no spare capacity on the multiplex.

6.32   Many of these 61 stations excluded in this way are smaller local stations, often on the edges of metropolitan areas, where even if there were capacity on the local multiplex, the area covered by that multiplex is too large to be attractive to the station and the costs of carriage are too high (because the multiplex covers a large area and so requires a number of transmitters) to justify the benefits. An example is Radio Jackie in Kingston-upon-Thames. This lies within the coverage area of the London multiplexes. The problems are that the London multiplexes cover an area which stretches well beyond Greater London into the Home Counties; capacity on the multiplexes is in high demand for London-wide stations, so that there is no space available and even if there were it would be too expensive for a relatively small station like Radio Jackie to afford.

6.33   It is important to note that, if the fourth block of potentially available spectrum was to be used for more local multiplexes and was allocated in such a way as to match the areas of those existing 61 stations, so allowing them a DAB migration path, then only around 20 of those 61 stations could be accommodated, as sufficient gaps would need to be left between the multiplexes to prevent mutual interference. This can only be an approximate estimate, as it would depend upon exactly which areas were allocated spectrum.

6.34   This analysis also ignores the many new community radio stations which Ofcom is now licensing, whose budgets are small and which cover much smaller areas than any of the existing or planned multiplexes. 48 such community licences have already been awarded and many more will follow over the coming months and years. As noted in section 5, these community stations are an important part of Ofcom's future radio framework.

6.35   So, there is, as yet, no obvious route for smaller analogue commercial stations or community stations to provide their services digitally in a way which is economic for them, even if spectrum was available. The main problem arises because of the technical characteristics of DAB, which broadcasts using multiplexes. This means that each frequency can carry around nine stereo services. Each of the services on the multiplex will use a number of transmitters on the same frequency to cover exactly the same area. It would not make sense, financially or editorially, for a small scale commercial or community station broadcasting to only a part of a multiplex licence area to broadcast to the whole of the area.

Digital Radio Mondiale (DRM) and HD Radio

6.36   Since we published phase 1 of this review, developments have taken place in DRM. The broadcaster RTL has launched national DRM services in France and Germany and re-launched Radio Luxembourg aimed at the UK using DRM. Receivers combining DAB and DRM tuners are expected to be available later in 2005.

6.37   DRM technology was developed primarily as a digital standard for the short-wave, long-wave and medium wave bands and does not currently offer sound quality comparable to DAB in those bands, due to bandwidth constraints although the technology is improving. However, it already offers a significant improvement in sound quality and signal robustness over analogue AM services. One advantage that DRM has over DAB is that it does not operate using a multiplex system – each frequency only carries one service, and so it can be tailored more to the coverage requirements of individual broadcasters. DRM on Medium Wave, for example, could offer a solution for the BBC in providing its nations' services to the more remote parts of Scotland and Wales, without the need for a DAB multiplex.

6.38   Work is also currently underway to adapt DRM for use in VHF Band II, currently used for FM services. This would offer enhanced sound quality over DRM on medium wave and would have similar coverage characteristics to existing FM services.

6.39   While it is still in the early stages of development and widespread deployment is some years off, DRM on both medium wave and VHF Band II may offer a digital migration path to smaller and community stations. It may also offer a digital migration path for those areas where DAB local multiplexes are not commercially viable. We note that WorldDAB and the DRM forum are working together in relation to the technical, marketing and policy issues to ensure the arrival of joint DAB / DRM receivers.

6.40   A similar argument could be made for the use of the American HD-Radio (IBOC) system, which could use the VHF Band II spectrum, although the HD-Radio standard is not currently approved for use in Europe by the ITU.

6.41   However, as VHF Band II is currently almost fully utilised by existing FM stations, a digital migration path, using either DRM or HD-Radio, would require at least some of those FM stations (possibly those now simulcasting) to vacate the band before any digital allocations in VHF Band II could be made. Any such change is many years away and could not happen until a significant proportion of radio sets could receive DAB services (as well as DRM or HD-Radio). A cost-benefit analysis and public consultation would be carried out before any decision is taken.

6.42   In the meantime, we welcome the development of dual DAB / DRM sets, as this should offer listeners greater flexibility and may help to bring down the price of receivers if DAB / DRM becomes the European way forward for digital radio.

6.43   Ofcom remains neutral on the question of which technology is preferable and will monitor the market for future developments. These questions should be addressed when digital radio is reviewed again in three years time.

6.44   Until that review and the implementation of any plans arising from it, we note that it would be technically possible for manufacturers to develop sets which would seamlessly navigate between DAB and FM stations using the data broadcast alongside DAB services, and the RDS data broadcast alongside FM services. This could help to allay the fears of those stations which feel stranded on FM and also

allow for the possibility of a radio EPG which included all DAB and FM stations available in an area. However, this is a matter for manufacturers and the radio industry.

Bit-rates and data capacity

6.45   On radio multiplexes, 80% of the capacity must currently be made available to be used for digital sound programme services, simulcast radio services, programme-related services and relevant technical services. This means that, at present only 20% may be used for non-programme related services. This effectively constraints the provision of data and multimedia services on the existing multiplexes. This constraint would also apply to any new multiplexes.

6.46   Given the increased interest in the potential for multimedia services on DAB (and other platforms) that has arisen since Digital One was awarded its licence, we consulted in phase 1 whether we should recommend to the Secretary of State that the existing 20% requirement should be raised and, if so, to what. We also asked what respondents foresaw the capacity being used for. It should be noted that it is up to the Secretary of State, not Ofcom, to decide whether to accept this recommendation and for Parliament to make the necessary change to the legislation.

6.47   On balance the respondents to the question supported an increase in the data limits although a significant number wanted it to be left at 20%, because they believe DAB should be, primarily, a radio platform. There was no consensus amongst radio broadcasters taken as a whole in the responses to our consultation. However, in debates elsewhere, many have expressed the view that the current limit is insufficient to allow for the development of new multimedia services which will encourage DAB take-up.

6.48   There was a general desire from respondents to make sure that the primary purpose of a multiplex remains the provision of radio sound services and this tended to be the major concern for those who opposed increasing the limit.

6.49   The respondents who wanted an increase varied in the level that they would increase the limit to from 40% to no limit. A few suggested that the majority (i.e. 51%) be retained for sound broadcasting. Others suggested that as long as the multiplex licence requirements for the number of services and quality levels were met then it should be up to the multiplex owner to decide what data they wanted to put on. A few respondents suggested that the limit should be different for UK-wide and local multiplexes or that the limit should be decided on a case-by-case basis

6.50   The proposed services were usually unspecified data/multimedia services, although many wanted to ensure that it was audio programme related. Specific suggestions included in-car data (e.g. traffic), EPG services and downloading music.

6.51   The 20% of capacity on Digital One's multiplex will be used to provide three live streamed video services and text and graphics, and Livetime plans to be able to provide a further seven video services in due course. A second UK-wide multiplex would double this amount of capacity and there is a similar amount of capacity again on local and regional multiplexes.

6.52   Rather than consider what an appropriate percentage for data services is, we propose to consider the question from the opposite end.

6.53   We set out in the last section why we believe there is a strong case for ensuring the provision of additional UK-wide radio sound services on the proposed new UK-wide multiplex. We further propose that, while there is no ideal level of choice of services, any new multiplex should match the number of stereo radio sound services currently provided by the Digital One UK-wide multiplex.

6.54   We propose to recommend to the Secretary of State that the 20% data limit be replaced by a requirement on UK-wide multiplex operators to reserve capacity for a certain number of radio sound services (Digital One currently broadcasts eight full-time stereo services and so we suggest that the equivalent of eight full-time stereo services, or a larger number of mono services – mono services require half the capacity of stereo services) should be set aside for sound radio services by all multiplexes.

6.55   The question then is how much capacity on the multiplex is required to deliver that number of services. To answer this question we need to consider the bit-rates used to broadcast sound services.

The bit-rates used to broadcast radio sound services

6.56   Ofcom is able to set and enforce technical standards in relation to digital sound broadcasting services under the Broadcasting Act (1996). Ofcom also has a duty to include appropriate conditions for securing that signals carrying radio multiplexes should attain high standards of technical quality (Broadcasting Act 1996).

6.57   Currently, Ofcom requires that a minimum capacity within a digital radio multiplex is attributed to each sound channel (e.g. a stereo music service must use at least 128kbit/s). However, since this regulation was put in place, technological progress has enabled new coders to deliver better quality with the same bit-rate, or to achieve the same quality with a reduced bit-rate, which in turn would enable more services to be carried on a digital multiplex.

6.58   So, we consulted on a proposal to replace the current regulatory approach (based on minimum bit-rates) with a system of co-regulation, based on outputs, in which licensees are required to establish and apply appropriate criteria and practices for securing quality. Specifically, we proposed that:

- a hard minimum bit-rate limit within licences should be abolished;

- the general licence condition that signals carrying multiplexes should attain high standards of technical quality should remain, as should the reference to the Digital Technical Code; and

- the Digital Technical Code would replace the section on minimum bit-rates with a co-regulatory requirement akin to part of that applied in television on picture quality (the 'Technical Performance Code').

Indicative Code Provision on Digital Multiplex Audio Quality

1.   Licensees must provide Ofcom with a description of their procedures and criteria for ensuring high standards of technical quality.

2.   Licensees are required to make their own periodic assessment of the technical quality of their service. The objective of this

> monitoring should be to confirm the effectiveness of their procedures and criteria.

> 3. Technical quality should generally be of a standard consistent with reasonable expectations for the majority of listeners, taking into account the nature of the content concerned.

> 4. Without prejudice to the generality of the above provision, the technical quality of received audio should not be degraded by the process of coding and transmission by more than two 'diffgrade' points on the scale defined within ITU-R recommendation BS. 1116, and generally by less than this. The provision of capacity to achieve this objective should take due account of the coding equipment used, the range of material generally transmitted on the sound programme service concerned, and the processes by which it has been created, stored and retrieved and sent for final coding.

6.59   We believe that the digital radio industry is committed to maintaining levels of service quality in order to protect and build the brand of DAB digital radio – especially as quality has been shown to be important to listeners. So we expect that licensees will make appropriate choices about the use of lower bit-rates, if service quality might be adversely affected. But Ofcom will intervene if the outcomes, by general consensus, are not serving the public interest well.

6.60   We consider that this change will further Ofcom's duty to secure the optimal use of the electromagnetic spectrum and the availability of a wide range of radio services which, taken as a whole, are of high quality (Communications Act).

6.61   The organisations which responded to this proposal were broadly in support. In particular the radio broadcasters, except for UKRD, were all in support. UKRD's reason for objecting was that the perceived sound quality of DAB digital radio is important to build critical consumer mass and this could be threatened by lowering the bit-rate. The reason for the support was essentially that bit rate, by itself, is seen as a poor proxy for quality. An industry led best practice approach was advocated by the BBC. SRH wanted the current rules removed and nothing put in its place as they saw it as an anomaly compared to AM, FM, DTT and satellite.

6.62   There was a desire to know more details of how it would work particularly around how disputes would be resolved, who would pay and the potential burden of providing the evidence that Ofcom was asking for. One respondent wanted Ofcom to produce guidance as to what combinations of technology and codecs may be acceptable.

6.63   The organisations who objected were concerned that reduced quality could damage the take up of DAB. This included the academic respondents (e.g. Leeds University and the Radio Studies network)

6.64   This consultation question raised the largest amount of interest from individual respondents who were almost all opposed to the proposal. Many said that they would prefer increased quality to increased quantity of stations. Both the individuals and the organisations which were opposed to the proposal were concerned at the potential reduction in quality that could result. Many of the individuals equated bit-rate with quality and did not respond to the concept that technical developments could allow the same quality output at lower bit-rates than in the past.

6.65   A number of individuals made the point that we should not replace FM with DAB (or switch FM off) until DAB was available at the same quality as FM. A number also made a more general point that DAB quality should be the same as FM quality.

6.66   We understand the concerns of those who argued for a maintenance of (and even an increase in) the current minimum bit-rate requirements. DAB digital radio must offer listeners high standards of sound quality if it is to persuade them to convert from analogue listening. However, we also recognise that improvements in technology mean that the existing minimum bit-rate is no longer the most appropriate way to ensure that sound quality is maintained (and we hope) improved.

6.67   The question is what will drive the maximum benefit for the maximum number of listeners?

6.68   Our research suggests that the majority of DAB listeners are satisfied with the quality of sound they currently experience.

6.69   Participants in our research described the gap between expectations and experience of DAB services. For example, users realised there would be better quality reception and sound from the units but were surprised how good the sound was. The improvement in the quality of sound from stations such as Virgin and Radio FIVE LIVE were particularly noted. Respondents particularly liked the fact that the signal did not 'drift', that there was no interference or crackling and that the sound was 'crisp' and crystal clear. Indeed, some of the more technical 'musos' in the London group felt at times that the digital sound was too sharp and did not always have the warmth and bass of analogue broadcasts.

> "It's really clear, to the point where you think, is this a radio or is the person right in front of you."
>
> - London DAB Group

> "I think the only downside to digital, I might be getting a bit, might be criticising it too much, is it can tend to sound rather sharp, rather, not as warm as analogue…. Like if you listen to somebody's voice, it's crystal clear but it's not warm sometimes, not got that nice richness about it, whereas analogue has."
>
> - London DAB Group

6.70   These insights are quantified in the survey. Among DAB users, more than half (56%) cite better sound quality as the most important advantage of listening to digital radio, Those accessing digital radio through the television and internet also feel improved sound quality (46%) to be the key advantage (figure 13).

6.71   Digital radio listeners aged 35 and over are more likely to believe better sound quality to be the key advantage (52% compared to 38% of younger listeners), while those aged under 35 are more likely than older listeners to consider extra stations to be the main advantage of digital radio (18% compared to 10%). This research suggests that the majority of listeners are happy with the sound quality they currently receive.

6.72   On balance, we do not believe that replacing the current bit-rate limit with a co-regulatory system would lead to a reduction in sound quality from that already provided. Moreover, it would not be in the interests of radio stations to reduce the sound quality as the effect is likely to be that they will lose listeners.

6.73   We therefore confirm that we will move to a system of co-regulation, similar to that already applied in television, where it is the sound coming out of the speaker that is judged, rather than the technical inputs.

Figure 13 Most important advantages of digital radio

	Digital TV / Internet radio listeners	DAB set owners
	%	%
Better sound quality	46	56
Not having to adjust the frequency while driving	14	12
Ease of finding stations	13	13
Extra stations	14	13
Details of tracks being played	3	3
No advantages	6	2

Base: All digital TV / internet radio listeners (799) ; All DAB set owners (145)
Source: MORI

6.74   We will consult digital multiplex licensees about the details of the co-regulatory regime. We intend that the approach should be industry-led and should aim to avoid detailed regulatory intervention. An industry-drafted note of guidance on best practice might play a part.

Would a reconfiguration of existing DAB multiplexes improve coverage?

6.75   Digital One has argued that some of the newly available VHF Band III spectrum should be made available to improve the coverage of existing multiplexes, including the extension of coverage of Digital One into Northern Ireland.

6.76   On the question of Digital One's extension into Northern Ireland, their licence is specifically for Great Britain, as insufficient spectrum was available in Northern Ireland at the time of granting Digital One's licence. Any new spectrum that becomes available in Northern Ireland – and it is still not certain that any new spectrum will become available – would have to be advertised and awarded by Ofcom according to the statutory criteria for awarding a DAB licence. Digital One would have no automatic rights to this spectrum.

6.77   As far as other existing multiplexes are concerned, we set out the problems of reception in phase 1 of Radio – preparing for the future. Each multiplex broadcasts on a single frequency, so that an extension of coverage within the licensed area does not require more spectrum, simply more transmitters or higher transmitter powers. Indeed this is one of the main benefits of DAB digital radio; it is spectrum efficient and the signals from each transmitter reinforce each other to provide more robust reception. The problems of coverage that exist at present relate more to the need to restrict transmitter power levels to avoid international interference and to the fact that the networks have been planned for mobile, rather than indoor reception. Ofcom is

working to improve the position in the UK as regards these planning constraints. However, for the short-term at least, the options are limited.

6.78   Early in 2005, the DRDB set up a sub-committee, chaired by the Rt. Hon. Chris Smith MP (now Lord Smith) and consisting of representatives of Ofcom, CRCA, the BBC, Digital One, DCMS and the DTI, to consider a plan to migrate all existing analogue stations to digital platforms. (We considered the options for achieving this goal above) As part of the discussions, Ofcom and the transmission supplier Arqiva (formerly NTL) were asked to investigate whether a re-planning of the existing spectrum was possible and sensible. The report is shown in Appendix D.

6.79   Following that report, further discussions have taken place and work is underway with the help of the industry to investigate the options further.

Multimedia and pay-radio services

6.80   Allocating spectrum specifically to radio sound services would have the effect of reducing the amount of capacity available for data and other multimedia services accordingly.

6.81   We believe that the market should be allowed to develop such services and that these will bring significant benefits to consumers and citizens. . Interventions should be kept to the minimum necessary for specific public policy purposes, and the benefits of the intervention should be weighed very carefully against the costs, which can be significant in both short and long term.

6.82   There is a significant amount of spectrum available for data and multimedia services in the L-Band and in the released UHF analogue television spectrum, although the technical attributes of these other pieces of spectrum are different from that in VHF Band III.

6.83   The L-Band spectrum, equivalent to 16 blocks of UK-wide DAB spectrum is due to be auctioned on a technology and platform-neutral basis in 2006-7. This could be used to provide data and multimedia services, or further sound radio services (free-to-air or subscription based), either using DAB-related technology (such as that being used by Livetime for its service in VHF Band III) or other technologies, such as DVB-H. Existing DAB radios will not be able to pick-up data or multimedia services, whether in Band III or L-Band, and so new devices will need to be developed to allow reception of these new services whichever spectrum they use.

The implications for further Medium Wave licensing

6.84   In phase 1 of this review, we noted that there were some unused medium wave frequencies and we asked, in our consultation, for expressions of interest:

> How should Ofcom allocate further MW (AM) frequencies between commercial and community radio?

> How might we accommodate the advertisement of new commercial MW licences into our existing FM licensing plans?

6.85   There was a broad consensus among respondents that commercial radio should be favoured over community radio when allocating this spectrum, but that community radio should be given the spectrum when it would not be commercially viable for a commercial station. However, it should be noted that the Community Media

Association was the only community radio body to respond and they wanted community radio to be available on all platforms.

6.86   There was a strong feeling that commercial licences should cover large areas (sometimes described as "super regional") or major metropolitan areas and that the licences should be advertised after inviting expressions of interest. Some felt that the spectrum should be given to existing FM or MW stations to increase or improve coverage and that power increases should be allowed for MW stations.

6.87   Several respondents felt that MW was a good place for community radio, but wanted to ensure neither that MW only had community radio on it, nor that community radio was only available on MW.

6.88   A minority of respondents (including GWR and four digital only stations) questioned why MW spectrum was being allocated if Ofcom wished radio to move to digital. NTL and SRH wanted some of the spectrum to be allocated to, or reserved for, DRM.

6.89   There was a general feeling amongst respondents that MW licensing should get under way soon. However, apart from that, the respondents were split between the three proposals of releasing MW rapidly, waiting until FM licensing was complete to license MW and slotting MW into the existing FM licensing timetable.

6.90   Given:

- the relatively low level of demand expressed by commercial stations for these frequencies, other than for large area coverage, for which these frequencies are not suited;

- the possibility of using Medium Wave spectrum to provide a digital migration path for small commercial and community stations; and

- the risk that additional licensing of commercial radio services on MW could inhibit use of the spectrum for DRM

we are not minded to make the licensing of further MW commercial stations a priority for the time being.

6.91   However, we will license the frequencies, where appropriate, for RSLs and community stations (e.g. where FM frequencies are not available or would be inappropriate). This approach should not hamper the development of DRM services, given the short duration of community radio licences.

Further FM licensing and the case for an end to simulcasting

6.92   Remaining spectrum in VHF Band II, currently used for FM radio, is extremely scarce. Ofcom is currently licensing the final batch of around 30 FM commercial stations and a range of community stations, where spectrum allows. Once this process is completed there is unlikely to be much VHF Band II spectrum available. This means that we are unable to be likely to provide FM spectrum for all of those community and commercial stations which would like to broadcast. As we have noted elsewhere within this report, DAB digital radio offers an opportunity for some of these services, but is not suitable for all, particularly the smaller ones. DRM in the medium wave band may offer a solution to some of these stations, but in order to allow for the development of further community stations, and the opportunity for the smaller commercial stations to transfer to digital broadcasting, there may be a case for freeing-up some existing spectrum from other radio uses.

6.93   In phase 1 of this review, we argued that we see no case for analogue switch-off at the moment and that, in the medium-term at least, we see analogue broadcasting continuing alongside digital radio broadcasting.

6.94   The current practice of simulcasting stations on FM and DAB digital radio is required because many listeners are not equipped to receive DAB and DAB coverage is not yet complete. However, this practice is both wasteful of spectrum and expensive for broadcasters.

6.95   So, at some stage, when the vast majority of listeners are equipped to receive DAB digital radio and coverage is complete, it may make sense to end analogue / digital simulcasting, both local and national services and BBC and commercial. However, the end of simulcasting of BBC services is a matter for Government.

6.96   This will free up a considerable amount of spectrum to allow for new uses which could include more community stations and further new stations. Technical developments are expected to allow for DRM to be broadcast in VHF Band II within the next two years, and so by the time an end to simulcasting approaches, all digital radios could be equipped to receive DAB (in VHF Band III and L-Band) as well as DRM (in both Medium Wave and VHF Band II).

Conclusions on the further licensing

6.97   There are likely to be four blocks of VHF Band III spectrum available for allocation, subject to international frequency clearance.

6.98   We propose to allocate three of these blocks to provide the opportunity for a local DAB multiplex in every part of the UK that does not currently have one. We propose to allocate these under the terms of the Broadcasting Act.

6.99   We propose to allocate one block to provide a UK-wide DAB multiplex, under the terms of the Broadcasting Act.

6.100   While we do not, at this stage, propose a digital switch-over plan for radio, we note the benefit to consumers of all stations being able to broadcast digitally. However, we also note that there is not currently a digital migration path for all existing or planned commercial local stations or community stations. We will continue to consider the options for providing such a migration path, although we note that no commercial station has an automatic right to broadcast on digital. One option may be DRM (Digital Radio Mondiale) using Medium Wave or other spectrum.

6.101   Because we want to investigate the options for DRM on Medium Wave, we do not plan to license further commercial AM stations for the time being.

6.102   We will continue to license FM commercial stations and community stations for as long as there is spectrum available, but we note that in order to provide for more stations and to provide the potential for a digital migration path for all stations, the current practice of simulcasting services on analogue and digital may need to end once the vast majority of listeners are equipped to receive DAB services.

6.103   We confirm the move from imposing a minimum bit-rate on DAB services to a co-regulatory system based on sound quality.

6.104   We recommend that Government replaces the current limit of 20% of capacity on DAB digital radio multiplexes which can be used for non-programme related services,

with a requirement to reserve capacity for a number of sound radio services on each multiplex, equivalent to the spectrum required for at least eight full-time stereo services. With improvements in coding and the new co-regulatory sound quality regulations this should free-up capacity for additional multimedia and data services.

6.105   Additional spectrum in other bands will provide additional commercial opportunities for sound or multimedia and data services, either free-to-air or subscription.

6.106   The accompanying document *Radio – Licensing policy for VHF Band III sub-band 3*, makes proposals on the allocation of spectrum, for consultation.

Next steps

6.107   In order to achieve the public policy benefits set out in this section, we believe that the remaining spectrum should be licensed for DAB use as soon as possible.

6.108   DAB digital radio has an opportunity to become a mass market medium providing the combined benefits of portability, reception in cars and local programming, which other platforms cannot match. However, those other platforms may offer other things which consumers find attractive, including more choice of stations. These other platforms are either available now (radio over TV or the internet) and are becoming available in new ways (such as wi-fi receivers in the home or the new Sky Gnome device, which allows Sky subscribers - with no additional subscription - to remotely control their digibox and listen to any channels subscribed to anywhere in their home), or are now trialling with a view to launching in the next couple of years using other spectrum such as L-Band (e.g. DVB-H).

6.109   DAB digital radio therefore has a window of opportunity in which to make itself a compelling consumer proposition.

6.110   Further details of our proposed next steps are included in the accompanying document *Radio – Licensing policy for VHF Band III, sub-band 3.*

The regulation of Formats and Localness on commercial radio

Introduction

7.1   The current regulatory regime applied to radio varies by platform: analogue commercial radio is the most tightly regulated, DAB digital radio is less heavily regulated, while radio via digital television has only to comply with minimum standards and radio via the internet is not regulated at all.

7.2   In the long-term, as digital radio is taken-up by the vast majority of the population and the choice of stations expands, it may be possible to relax some of the regulation of analogue radio. For the present, as most people have only analogue radio (at least on portable and mobile receivers, where most listening takes place), there is still a need to intervene to ensure range and quality and the provision of local material.

7.3   In phase 1, we carried out audience research and considered the financial implications of the current regulation and proposed changes on licensees. As a result of this work, we proposed to put less emphasis on the input regulation of local analogue commercial radio and more emphasis on the output – the services actually delivered to listeners – as well as more of an onus on stations to demonstrate what they have delivered. We consulted on our proposals and present here the results of that consultation and our final decisions.

7.4   Our premise was that, while regulation should aim to ensure the range and quality of radio for listeners, where possible the regulator should avoid determining how the programming is made. Current regulation comprises a combination of Formats (generally output regulation), controls over a range of inputs (rules on how programmes should be made) – e.g. the use of news hubs, the amount of automation allowed in programming, the location of studios – and Ofcom's programme codes.

7.5   We proposed to continue to use each station's Format, as set out in its licence, as the primary regulatory tool, backed-up by a new set of clear guidelines covering local content. We pointed out that stations will also continue to have to comply with Ofcom's programme codes.

7.6   Alongside our proposed set of localness guidelines we made some specific proposals around the regulation of inputs for consultation. These are considered in turn below (and in detail in Appendix C).

7.7   However, before we look at the specific proposals around input regulation, we consider the role of Formats in regulation and we propose a set of procedures for considering whether changes to Formats should be permitted.

The regulation of Formats

7.8   Ofcom is required to include conditions in each analogue local commercial radio licence that are appropriate for securing that the character of the service, as proposed in the station's application, is maintained during the licence period (section 106(1), Broadcasting Act 1990).

7.9   We meet this requirement by means of a Format, included in the station's licence, which includes a description of the character of the service (the output and the audience at which it is targeted) and supporting detail regarding how much of the service will be produced and presented locally (i.e. from a studio in the licence area), and the specific type(s) of music and speech output to be provided.

7.10   As well as meeting this specific requirement, Formats help Ofcom to protect the interests of listeners, both as citizens and consumers, and to meet its general statutory duty

> "to secure the availability of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests".

Background

7.11   Every Format is different, designed to cater for the needs of the specific audience in each locality and allow for the different conditions faced by each station. Stations licensed by the Radio Authority have a one-page Format, agreed between the regulator and the station, and derived from the more detailed "promise of performance" issued at the time of launch. Under Ofcom's new licensing procedures, applicants for new licences write their own one-page Format.

7.12   In addition to the type of programming it must broadcast, each station's licensed Format also stipulates how much locally produced and presented (i.e. locally-made) programming it should provide (as promised in its application). A typical station Format is shown in figure 14.

Summary of consultation responses

7.13   In our phase 1 consultation we asked:

> Do you agree with our proposals to use Formats as the primary tool of regulation for analogue commercial local radio?

7.14   The response to this question was overwhelmingly positive. Respondents saw Formats as striking a good balance between flexibility and ensuring that stations provide services that meet the required criteria. In particular respondents liked the ability of Formats to be tailored to particular licences.

7.15   Only two organisations dissented from the general proposal. Of these, one (RNIB) wanted the Format to be combined with additional elements (e.g. commitments to community undertakings) and the other (Crown Castle) felt that Formats did not focus enough on "content".

7.16   However, a number of those who responded positively asked for more clarity about the licence change regime. While stations wanted the ability to evolve their Formats to cater for changing circumstances and audience needs, there was particular concern that stations awarded licences based upon specialist Formats should not be allowed to become general interest stations catering for a mass audience.

7.17   In response to those concerns we have developed, for consultation, a framework to provide guidance as to how requests for Format changes will be dealt with.

The regulation of Format changes

7.18   Although a regime based on Formats is simple and transparent, there will always be occasions on which Formats need to change. Radio is a dynamic industry and Ofcom would want to see station Formats evolve in parallel with listeners' changing preferences and interests, so long as the overall character of the service was not compromised. This is not to say that Ofcom will not also consider more fundamental changes, as required by statute. Local commercial radio stations are, by their nature, commercial businesses and if a Format fails to deliver a commercial return to the owner there may be a need to allow a more fundamental change.

7.19   The Broadcasting Act 1990 (as amended) sets out the circumstances in which Ofcom may consent to a departure from the Format of a service. One of four grounds specified in the Act must be met for Ofcom to be able to consent to the change:

a.   that the departure would not substantially alter the character of the service. (Note: The legislation requires Ofcom to have regard to the selection of spoken material and music in programmes when determining what the character of the service in question is.);

b.   that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living in the area or locality for which the service is licensed to be provided;

c.   that, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or

d.   that, in the case of a local licence, there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure.

Figure 14: A typical station Format

WEATHERFIELD 107.4 STATION FORMAT

Licence outline

Station Name	Weatherfield 107.4
Licence Area	Weatherfield and the surrounding villages of Charnham and Emmerdale
Frequency	107.4 MHz
Service Duration	24 hours a day (at least 20 hrs locally produced/presented)

Definitions

Speech	"Speech" excludes advertising, programme/promotional trails & sponsor credits, and may be calculated over any four hours.
Music percentages	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

Character of Service

A FULL SERVICE COMMUNITY-ORIENTED MUSIC AND INFORMATION STATION FOR THE WEATHERFIELD AREA

Detail
Weatherfield 107.4's commitment to local speech is at the heart of the its broadcasting, and local information is an important part of

the remit. The schedule should include regular interviews and inter-active programming. Bulletins including local news should run hourly at least during peak-time, and two of the bulletins should be at least 15-minute bulletins. Speech would not normally be expected to fall below 20% of the daytime output. Music is a broad range mixing classic hits (with soul, rock etc as appropriate) with melodic currents (although currents should never make up more than around a quarter of the daytime music output). Specialist or themed programming complementing the main mix can run in non-daytime.

7.20 We have developed a proposed framework for dealing with Format change requests. The proposed internal Ofcom process follows a different path depending upon whether or not the request is for a substantial change. It is difficult to provide exact definitions of substantial in this context but, as a guide, the simplest test for a substantial change would be if the Character of Service, as defined in the Format, required a change in wording. This would undoubtedly signal such a fundamental change, but that should not be the only type of change that could be regarded as substantial.

7.21 If the change is substantial, Ofcom will consult on it (as required by the legislation) before passing it to the Ofcom Content Board for comment. The Radio Licensing Committee will take into account the Content Board's comments in reaching a decision.

7.22 If the change is not substantial, Ofcom will not consult on it, but instead the Radio Content team will report to the Content Board for noting or comment. If required, the Radio Licensing Committee will take into account any comments made by the Content Board in reaching a decision.

7.23 The legislation leaves to Ofcom's judgement the decision as to whether to permit a change, even if one of the statutory criteria is satisfied.

7.24 If one of the four statutory criteria is met, Ofcom proposes (subject to consultation) to apply the following criteria against which to judge whether a request should be approved or not:

- The extent of the impact of the change on the character of the service. The judgement will be made on the basis of the overall "sound" of the station. Making this assessment may require the station's content to be evaluated in detail in the context of the Format.

- The time elapsed since the licence was awarded. Ofcom recognises that audiences change over time and stations need to adapt in parallel. Consequently, long established stations' requests to modify their format are likely in general to be considered positively in the light of changing listener demands. However, a change soon after award would be inconsistent with the licensing process whereby stations define their own Formats in their licence application. As a general rule therefore no format changes will be permitted in the first two years after a station is launched and, in the period subsequent to that and up to five years after launch, only changes which do not substantially alter the station's character will be permitted. After a five year period since launch, stations will be considered long established

and so it is likely that in general a proposed change, where there is a strong evidentially-based argument for it, will be entertained. However, even in these circumstances applicants and licensees should not assume that they will be permitted to dispense with the fundamental proposition on which the licence award was based. If a substantial change is permitted at any stage, the RLC will, in general, reset the clock i.e. to measure 'time since award' as starting from the time when the substantial change is implemented. None of the above guidelines will be affected by any changes in ownership of a radio station.

- Considerations taken into account in making the original award. Where the original decision to make the award depended heavily on a specific commitment in the proposed Format, then Ofcom is likely to be reluctant to allow the change.

- The views of listeners and stakeholders. Where Ofcom issues a consultation about a proposed change, the views of listeners and stakeholders will be fully taken into account.

- The avoidance of 'Format creep'. Ofcom will be alert to the possibility that a series of small changes to a Format could in aggregate amount to a substantial alteration to the character of a service. Consequently Ofcom will take into account the effect of a proposed change in the context of previous changes.

- Whether the station broadcasts on AM or FM. Ofcom has long recognised that AM stations are at a disadvantage in retaining listeners because of the relatively poor quality of the medium. Changes, including substantial changes, to AM station formats, will therefore be more willingly agreed than would be the case for FM stations.

- Whether the Format is one issued by the Radio Authority. Licences granted by the RAu may include formats which need to be brought up to date in the light of current Ofcom practice. We will take account of the history of such formats when considering change requests.

7.25   In addition, Ofcom may need to consider other statutory obligations in relation to a particular decision. For example, a proposed change that affects the amount of local material or locally-made programming would have to be considered in light of Ofcom's localness obligations under section 314 of the Communications Act.

7.26   If a station is considering applying to change its Format, it may wish to contact the Ofcom Radio Content team for advice as to what specific information would be required to support its case for change. This is likely to vary on a case-by-case basis.

7.27   In addition, each year the RLC will review the entire process of Format change. As well as assessing the way in which the process operates generally, the RLC will be examining two issues in particular – firstly, that licensees do not make a series of apparently minor changes to Formats which in aggregate constitute a substantial change which has not been properly scrutinised; and, secondly, that decisions on Format change made outside the RLC were properly made. The Content Board will also be informed of the outcome of this review.

Question for consultation:

Do you agree with the proposed procedure and considerations for dealing with requests for Format changes for analogue commercial local radio stations?

Input regulations

7.28 We said in our phase 1 report that our primary consideration was to ensure the quality and range of the programming that listeners hear, rather than a focus on how the programmes are produced. This consideration underlies all of the changes we proposed to other regulations.

7.29 As well as the Format, included as part of each station's licence, there is currently a set of rules, introduced by the Radio Authority, governing matters such as the use of automation, the location of a station's studios and the way in which local news is delivered.

7.30 While Formats can generally be described as 'outputs' (i.e. they describe what the listener hears), these other rules can be described as 'inputs' (i.e. they are related to the production of the output).

7.31 One of the results of using Formats as the primary regulatory tool (supported by a clear set of localness guidelines) and focusing on outputs, would be to allow us to relax some input regulations, although we recognised that some input regulation will still be required to comply with Ofcom's duties as regards local production.

7.32 In particular we focused our proposals on the regulations around:

- the location of a station's studios (e.g. the importance or otherwise of a local station having a local presence, accessibility etc);

- the networking of programmes among multiple stations (e.g. how far should this practice be restricted), the scope of what is meant by local material, and to what extent programmes consisting of or including local material should be included in the service;

- the use of automation (e.g. whether the present daytime restrictions are reasonable; whether automation should be allowed from within a specific distance etc);

- how stations should meet their Format obligations to provide local news, if appropriate (e.g. whether 'news hubs' should be allowed generally; whether they should be restricted by distance etc); and

- the scope of what is meant by locally-made programmes, and what would be a suitable proportion of such programmes.

7.33 We welcomed the views of all stakeholders on our proposals in these areas. The responses to the consultation and the further analysis we have carried out are shown in Appendices B and C. The results and conclusions are summarised in the following sections.

Studio location

7.34 Ofcom is required to secure that, where programmes consisting of or including local material are included in a station's Format, a suitable proportion of them consists of locally-made programmes. "Locally-made" is defined in the legislation as "made wholly or partly at premises in the area or locality for which that service is provided".

7.35 We remain of the view, as set out in phase 1, that both to fulfil our statutory duties and protect listeners' interests, local stations' studios should be in the area to which they broadcast.

7.36   On balance, having taken into account the consultation responses, we believe that our proposal in phase 1, to change the definition of the local area from the station's measured coverage area (MCA) to being the "licensed area" was correct, as this strikes a reasonable balance between protecting listeners' interests and not being overly restrictive.

7.37   As we also said in the phase 1 report, in exceptional circumstances, we will consider allowing a station to locate its studios outside its licensed area, for example to co-locate with another station (although this may require a Format change, using the proposed process outlined in section 7.2, to remove any requirement for "locally produced and presented material", while retaining any requirements for local material).

7.38   We will now formally include this change in the localness guidelines and we will revise all individual licences to remove existing references to measured coverage areas (MCAs).

Networking, the provision of locally-made programming and local material

7.39   Networking involves the transmission of the same programme, at the same time, across a number of different radio stations. Although the use of networking implies a reduction in localness, modern technology allows for networked output to incorporate local material, with such output being inserted into 'windows' during the course of the programme.

7.40   Our objective is to ensure the provision of locally-made programming and local material on radio stations, to the extent required by each station's Format. Formats may also specify that programming at certain times of the day (e.g. peak time) must be locally-made. Beyond these Format requirements, there are currently no written rules on the networking of content.

7.41   Having taken the consultation responses into account, we confirm our proposals to clarify the rules on networking, which do not represent a change from the current provision. The amount of locally produced programming is included as part of each station's Format, and this should be sufficient to ensure that an appropriate proportion of programming continues to be made locally.

7.42   Stations are, therefore, free to network as they wish, outside of the requirements regarding locally-made programming specified in their Format (normally peak-time). Where local material must be provided during networked programming, this will already be defined in each station's Format.

7.43   However, we accept the arguments made by some respondents to the consultation, against the proposal to require all of the hours of locally-made programming to be able to demonstrate elements of local material. We have therefore removed this from the final localness guidelines.

7.44   We have based our final guidelines on the stated desire of listeners to be offered relevant and timely local programming by their local radio station and we are not proposing here any increase in the amount of networking allowed. We also have a statutory duty to ensure that a suitable quantity of programmes that contain local material is locally made. We believe that this duty is fulfilled by the Format and have amended the Localness Guidelines accordingly.

7.45   Any increase in networked hours above those allowed by a station's Format would require Ofcom's approval, under the Format change guidelines (see above).

The use of automation

7.46   Automation was defined by the Radio Authority as "computer controlled programming, involving the music, voice tracks, drop-ins, commercials and other programming elements being played in accordance with a pre-defined schedule and which is not under the direct control of an on-air presenter."

7.47   We said that we wished to consider the case for removing all specific limits on the use of automation. However, were we to do so, we pointed out that stations should obviously bear in mind that listeners expect their local station to be live at key times of the day. But we noted that the automated programming during a station's hours of locally-made programming, as specified in its licensed Format, must be locally-made.

7.48   Having taken into account the consultation responses, on balance we continue to believe that the current automation rules do not serve the best interest of citizens and consumers. Technology has improved since the rule was imposed and automated programmes can sound just as good as live programmes. A limit on the amount of automation is, therefore, no longer a proxy for the maintenance of quality. However, we do not wish to see all programming being automated, as stations need to be live and local and be able to react to events at the times that matter to listeners, for example at breakfast time. We have tried, therefore, to allow stations flexibility in the way that they produce programmes, while focusing in our guidelines on the quality of the service the listener hears.

7.49   However, Ofcom reserves the right to reconsider whether specific limits on automation should be reintroduced if the removal of regulation in this area proves to be detrimental to the overall quality of radio services; for example if we found that stations were not generally reacting to local or national events in the interests of their listeners.

7.50   We suggested that each station should include, in the proposed Public File, details of how many and which of its hours are automated and where any automated programmes are made. As noted below in the section on the Public File, many respondents to the consultation objected to making this information public on the grounds that it could pose security issues for stations by advertising the fact that the premises are unmanned at certain times.

7.51   We have therefore changed this proposal for the Public File, and will instead require licensees to state in their Public File how many hours they are automating in daytime (6am – 7pm), but not specific timings. In addition, Ofcom will collect information on which hours are being automated throughout the day, directly from stations, as part of the quarterly revenue data collection process. The system will be designed so as to be very simple for stations to provide data on which hours are automated and where programmes are produced. The data will be useful in gaining an overall impression of the use of automation across the industry and in following up any specific complaints against stations.

7.52   The relaxation of daytime automation limits has clear implications for Ofcom's licence application process in that, at present, applicants are asked to state the promised levels of live and automated programming. So from now on, the application form will not oblige applicants to state such levels. However, an applicant may wish a level of live programming to be considered as a specific relevant factor within its output and

so may wish to include the offer of a level of such programming in their proposed Format. This level of live programming would then be enshrined in the same way as other content within the Format. Similarly, any applicants who have offered specific levels of live programming within a successful Format application will be expected to honour those levels. Requests to change levels of live programming will be considered within the same process as that for dealing with requests to change Formats, as outlined above.

The delivery of local news

7.53   One of Ofcom's objectives is to serve the interests of citizens and consumers by ensuring the provision of a high quality news service including local and national news, by local radio stations, to the extent required by each station's Format. The question is how this objective is best achieved.

7.54   Some broadcasters have argued for the wider use of news-hubs, whereby the news for a number of local stations in different areas is presented from a single location, so allowing greater efficiencies. Opponents argue that the quality of news programming suffers as a result, as the lack of local presence may mean that editorial judgments about what is of importance to a particular area are much harder to make.

7.55   We argued that, for listeners it is the quality, relevance, timeliness and accuracy of the news that matters, not where it is read from. We said that we wished to consider the case for allowing any group of stations to operate news hubs in any way which makes operational sense for them, but which still ensures that Ofcom can meet the objectives set out above.

7.56   We suggested that one possible way of ensuring that the overall objective of providing a comprehensive local news service, in touch with the area it is covering, is met would be to require each station to provide direct and accountable editorial responsibility, based within the licensed area, equivalent at least to full time professional journalist cover for all of the hours during which its licensed Format specifies that it will provide local news programmes.

7.57   We recognised that this approach is not fully consistent with our aim of moving the emphasis from input to output regulation, and welcomed views as to whether there is a better way to meet the objective of ensuring the provision of a high quality local radio news service.

7.58   There was a high level of disagreement with this proposal from many within the industry, who argued that it was onerous and would not deliver the best quality news service. We therefore held further discussions with a large number of stations and carried out further analysis of the current situation and what effect our proposals might have (see Appendix C).

7.59   Following the consultation and the further work we carried out, we have revised our proposals.

7.60   We continue to believe that it is the quality of service provided to the listener that matters, rather than how the programme is made. We also believe that listeners are right to expect a local station to collect its news using journalists based in the local area, who are able to be more in-touch with the matters of importance to each area. However, we accept the arguments that to require a professional journalist to be employed locally for all of the hours that a station is required to provide local news is not a sensible requirement. It could actually damage the quality of news in some

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instances and could lead to significant additional costs for stations, particularly those smaller stations, many of which are not currently in profit.

7.61   We confirm therefore that groups of stations will be allowed to operate news hubs as they see fit, but we have revised the wording of the proposal regarding the need for full time professional journalists and tried to bring the proposal more into line with our aim of moving from input to output regulation. The Localness Guidelines have been revised accordingly (see section 7.9). This has the effect that local news provision is no longer included as part of the "locally produced and presented" output requirements in a station's Format.

7.62   These new guidelines are proportional to, although not directly consistent with, the demands on television broadcasters.

7.63   We also wish to clarify that, in the context of these guidelines, "professional" means paid and does not require the journalist to be accredited by a professional body. The requirement for "journalistic cover" means that the journalist has to be available to collect news when required, rather than that news collection has to be their sole task.

7.64   Ofcom reserves the right to review the position if the changes we set out above result in a decline in the quality of news provision.

Compliance with the regulation and the use of Format & Localness Files (Public Files)

7.65   The present restrictions on the level of daytime automation, the method of local news delivery, the amount of networking and studio location requirements, were all introduced by the Radio Authority as 'proxies' for localness and / or quality, both of which are legislative concerns for Ofcom. If these proxy regulations are to be relaxed, Ofcom will require a way to ensure that licensees' output complies with the obligations set out in their formats.

7.66   We argued in phase 1 of this review that, if Ofcom was to replace input regulation with output regulation, it would be necessary to find ways to ensure that licensees' output complies with the obligations set out in their formats. We proposed to do this in three ways:

- by continuing to investigate stations, following complaints by listeners and competitors;

- by carrying out spot-checks on stations to ensure they are complying with the terms of their licence and are following the localness guidelines; and

- by introducing a system of self-reporting by stations, to ensure that they can demonstrate how they have met their commitments. We proposed that this would consist of a Format and Localness File, available to the public both on the station's website and as a hard copy upon request at a station's studios. We said it should set out how a station has complied with its localness obligations, how much automation has been used and where such programmes were produced and how the station has provided its local news (e.g. how many journalists have been employed locally).

7.67   We proposed requiring the commercial radio industry in the UK to develop a universal system which encompasses the best elements of the Public File (as utilised in the US) in a demonstration of format compliance, to allow Ofcom, listeners and competitors to see how each station is satisfying its compliance obligations. We

proposed that this would probably best be achieved by varying each station's licence to include a specific condition requiring them to maintain a Format and Localness File. For the purposes of clarity for the public, we propose to rename the Format and Localness File the Public File. The proposed variation would be the subject of a later consultation with each licensee, in order to allow licensees to make representations to Ofcom before any variation is made.

7.68   We proposed that each station's Public File should be kept up-to-date (being updated at least quarterly, to ensure the contents are relevant to current output) and that records should be kept for a minimum of two years (to allow comparison of current and past performance).

7.69   Such a system would clearly reflect the transparency and openness encouraged and promoted by Ofcom. It would not negate the need for our monitoring where it is felt necessary, but could mean that only spot-checks and reaction to complaints would be required.

7.70   Failure to deliver localness as required by the Formats constitutes a licence breach and we would take the appropriate action against any station in breach of its licence. In making a judgement of compliance, we would always consider the following:

- an appropriate interpretation of the published guidelines;
- the type of station involved;
- the specific demands of the format;
- the likely expectation of the audience;
- the different ways in which the listed criteria could be delivered;
- output unique to particular stations that could be seen to deliver localness in a way not specifically listed;
- the time segments concerned;
- as many varied aspects of the programming as is reasonable; and
- representations of the station.

7.71   To aid a smooth transition to the new system, we proposed to utilise the 'Yellow Card' system in the event of any apparent localness breach. This is a system with which existing licensees are familiar and which provides stations with a warning that if they breach the regulations again they will face more serious sanctions.

7.72   The Yellow Card system is designed to iron out any regulatory problems before the need for consideration of sanctions. If we have reason to conclude that a station is failing to deliver its localness obligations, a Yellow Card may be shown to the licensee. This allows a period of time (perhaps up to a month) for us to spell out our concerns, for the licensee to make appropriate representations, and for any changes to be made in order to bring the station back within its format. Only after further monitoring, and if this monitoring led us to conclude that format obligations were still not being delivered, would consideration be given to sanctions.

7.73   The Public File is a key component in allowing Ofcom to move from input to output regulation and we therefore believe that if input regulation is to be removed, there would have to be extremely strong reasons for not progressing with the implementation of this proposal. We see no such reasons. The Public File should

also serve as the point of reference to facilitate meaningful 'content sampling' at any given time. The file will also provide greater transparency and information about their local station for the listener.

7.74 As noted above, we have amended our plans as regards the reporting of automation.

7.75 We have also noted that some stations would regard it as a problem if the Public File had to be available for inspection at their offices as well as on their website. They objected to this proposal on the grounds that some of their premises are difficult to access and that in some cases it may prove a security risk. We have therefore removed this requirement and instead will require each station to provide, by post, a hard copy of its Public File upon written request by any member of the public.

7.76 We propose to write the requirement to maintain a file and to publicise its existence into each station's licence and that, at a minimum, it will contain the items in the following list:

- News Bulletin Schedule including which bulletins provide local news and which provide only UK-wide bulletins (together with a note of extended bulletins where relevant to Format)
- Recent News stories covered on air (this could be today's news, a formal archive or recent examples)
- The News team
- The programme schedule
- The average number of hours of automated programming within weekday daytimes and within daytimes on Saturdays and Sundays
- The amount of local programming per day produced by the station
- Ofcom Localness Guidelines and how to complain to Ofcom (or link to the relevant part of Ofcom's website)
- Station Contact details
- Events/ charities support or coverage
- Recent programme and/or news highlights
- Any other issues or areas of interest likely to impact on localness
- The station's playlist

7.77 Stations will be given an opportunity to comment on these proposals in a further consultation exercise undertaken as part of the process for a proposed amendment to their licences.

7.78 Many of these details are already provided on many stations' websites. Our aim is not to duplicate what stations are already doing and so we suggest that these items need not all be in one place on a station's website. However, there should be a section of each website which explains what a Public File is and provides links to the other areas of the website where the required information can be found.

7.79 The pre-existence of most of the information allows individuals to navigate to or away from the Public File through simple links and minimises the workload for licensees. We believe this answers any criticisms that the new system would be onerous for stations.

Ofcom's localness guidelines

The status of guidance

7.80   A number of the proposals in the Phase 1 consultation document were included as part of the localness guidance. These were the proposals on local news delivery, studio location, automation and local material in all hours of locally-made programming. It should be noted that compliance with the localness guidance is not a licence obligation – so the localness guidance is not a set of 'rules'. However, where a radio station's Format contains localness commitments, then Ofcom will take into account the extent to which a station has followed the localness guidance when deciding whether there has been a breach of a Format commitment.

7.81   In phase 1 of this review, we set out our proposed final localness guidance, as required by section 314 of the Communications Act 2003. The final guidelines set out below, now take account of all comments made and the issues discussed above and are presented here in their final form. They will become effective immediately and are published on Ofcom's website www.ofcom.org.uk.

Ofcom's localness guidelines

Introduction

Localness is not an issue for all stations, but where it is demanded within the format, it should be addressed directly as per these guidelines.

The extent to which local material is included in the service provided by a licensee varies by station and is specified in the station's Format. Ofcom regards the Format, as supported by the localness guidelines, as fulfilling the statutory requirement regarding the provision of an appropriate amount of local material and a suitable proportion of locally-made programmes.

Localness can be both characterised and delivered in a number of ways (news, information, comment, outside broadcasts, what's-on, travel news, interviews, charity involvement, weather, local artists, local arts and culture, sport coverage, phone-ins, listener interactivity etc.), therefore precise definitions can be unhelpful.

Ofcom guidelines are not rules or demands as such. However, in its move towards 'output' rather than 'input' regulation Ofcom feels it is useful to outline the sort of considerations that may come into play if it becomes necessary to investigate a station's localness output. Many of these considerations are based on listener expectation.

It is the obligation of each station to deliver a suitable level of localness output as defined within the Format in whichever way it sees fit within its licence conditions. The guidelines set out the areas of issue that may be questioned by Ofcom if it has cause to investigate a station's localness output. The extent to which any particular guidelines have been considered may vary, dependent on the context of the complaint.

Local material - What it is

- Station programming of specific relevance which also offers a distinctive alternative to UK-wide or nations' service;

- Content drawn from, and / or relevant to, the area is often the major point of difference between stations and therefore licensees should be able to identify a range of local aspects of their stations and how they are providing output specific to their area;

- The feel for an area a listener should get by tuning in to a particular station, coupled with confidence that matters of importance, relevance or interest to the target audience in the area will be accessible on air; and

- Programming likely to give listeners a feeling of ownership and / or kinship, particularly at times of crisis (snow, floods etc).

Local material - What it isn't

- Localising news (e.g. conducting vox pop interviews in one area and playing them out as if from another or inserting local place names into UK-wide stories) without local news / information generation would not be regarded as a contribution towards localness;

- Pure promotional off-air activity such as station promotion in the area (vehicles carrying station logos, roadshows, etc.) are not in themselves substitutes for localness without on-air activity involving something other than self-promotion;

- Competitions / promotions that invite and involve listener participation from outside a station area would not be regarded as a contribution to localness; and

- The Communications Act 2003 [Section 314] stipulates that advertisements are not regarded as local material within the context of localness and Ofcom's localness guidance.

These statements are guidelines which recognise localness can be delivered in many ways, which are neither mutually exclusive nor individually obligatory. For instance, regular featuring of local music or artists is not a pre-requisite ingredient for the delivery of localness, but would certainly be regarded as a contribution towards such delivery. Similarly, the organisation of roadshows and the presence locally of promotional vehicles are regarded by Ofcom as important aspects of radio station activity, but could only be regarded as a contribution towards the delivery of localness if such activity manifested itself constructively on-air, as Section 314 requires Ofcom to consider only what is included in programmes.

Local material – News provision, automation, networking, studio location, etc

In addition to the above general guidance we want to outline the sort of factors likely to be considered by Ofcom if the provision of local programming at a particular station is questioned. Such factors are guidelines only, but the extent to which they may appear to have been considered might influence Ofcom's findings in the event of Ofcom 'output' scrutiny.

- For listeners, it is the quality, relevance, timeliness and accuracy of the news that matters, not where it is read from. Any group of stations may therefore operate news hubs in any way which makes operational sense for them. However, in order to provide a comprehensive local news service in touch with the area it is covering, Ofcom believes each station should have direct and accountable editorial responsibility for covering its licensed area. It also believes that the appropriate provision of professional journalistic cover, based

within the licence area, on days when local news provision is a Format obligation, is a reasonable minimum expectation. Any individual station should have procedures in place to be able to react to and report on local news events in a timely manner. Therefore, while Ofcom understands the need to record news bulletins this should be as an exception rather than a rule. Ofcom also draws the attention of licensees to the research findings and listeners' expectations that peak time bulletins should be live (or pre-recorded only shortly before transmission), an expectation we believe is reasonable.

- It is up to each station to decide how best to produce its locally-made programming and so there are no restrictions on the amount of automation (e.g. using voice tracking) that a station may use. To the extent that such programming forms a part of local hours (as defined in the station's Format), any such automated programmes should be locally-made and to the extent it comprises part of the station's local material should take account of Ofcom's localness guidelines. However, as with news, licensees are expected to take into account listeners' expectations and be able to react to events on a timely basis when it comes to automated and live programming; and

- While stations are free to network programmes outside the requirements regarding locally-made programming in their formats and are free to use automation as they see fit, they are still expected to be able to respond to local events in a timely manner, providing live local programming in the way and at times that audiences expect.

Locally-made programmes

Where a station is required to provide locally-made programming, its studios should be located within its licensed area, although Ofcom will consider requests for co-location on a case-by-case basis, taking in such factors as Format obligations, financial impact, output impact, operational needs etc.

Looking to the longer term

7.82 Over the coming years, as digital radio in the UK develops, Ofcom will need to consider further how radio generally is regulated and adapt to changing conditions. Any future changes are likely to be based upon reducing regulation where possible while protecting, where possible, the provision by commercial local radio of those public purposes identified in section 4:

- the provision of local news (alongside UK-wide and international news);
- providing a sense of local identity;
- serving local communities;

and where relevant for some stations:

- live music;
- interviews and debate;
- programmes for special interest groups;
- programmes for ethnic and religious groups;
- community involvement; and
- different types of music.

7.83   There are two areas for consideration:

Analogue commercial local radio

7.84   For analogue commercial local stations, if the development of digital radio leads to a wider availability of stations, Ofcom may wish to consider withdrawing from some areas of regulation. In particular this may be the case if, and where, range and choice is increasingly provided by the market. This may mean that in the future Ofcom may wish to focus its regulation on particular public purposes listed above, particularly around local news and information. Meanwhile if a wide range of musical genres is provided by the market on digital radio, it may be possible to relax the Format controls around the type of music played by local stations.

Digital commercial local radio

7.85   At present, the existence of (non-BBC) local programming on DAB digital radio is primarily ensured by the simulcasting of analogue commercial local stations which have Format requirements in their analogue licences to provide local material, in accordance with Ofcom's localness guidelines. This in turn is ensured by section 314 of the Communications Act, which requires Ofcom to "secure that:

- programmes consisting of or including local material are included in such services but, in the case of each such service, only if and to the extent (if any) that Ofcom considers appropriate in that case; and

- where such programmes are included in such a service, what appears to Ofcom to be a suitable proportion of them consists of locally-made programmes."

7.86   However, this requirement only applies to analogue stations. There is no similar requirement for digital stations, although analogue stations are offered an extension to their analogue licence if they simulcast their service on DAB digital radio, which has helped to ensure the presence of local stations on DAB.

7.87   But, if and when the simulcasting of analogue and digital stations ends, or if the audience for analogue radio shrinks to such a degree that it is not worthwhile for a station to continue broadcast on analogue, there will be no safeguard to ensure the continued provision of these local services on DAB. It may be that many of these stations decide for commercial reasons to carry on with some local programming, but there will be no guarantee that the provision of those public purpose elements of local radio – in particular local news and information – will continue.

7.88   It should be noted that some digital only stations do provide local programming at present (e.g. DNN, which provides a regional news service in several regions), or are required to provide local programming when digital radio penetration reaches a certain level. But, left to itself, it is likely to be the case that the market would not provide the level of local programming listeners across the UK currently enjoy.

7.89   Ofcom recommends that the Government considers, in due course, what statutory provisions may be required, if any, for DAB digital radio to ensure the continued provision of local material when simulcasting ends.

Conclusions on the regulation of formats and local programming

7.90   We confirm the move from the regulation of inputs (how programmes are made) to the regulation of outputs (what the listener hears) and, following consultation and further work, have made some amendments to our proposals, including those around local news provision.

7.91   We have proposed a framework for considering how Ofcom will consider requests for Format changes and we welcome comments on those proposals.

7.92   We have set out our final set of Localness Guidelines, which will become effective immediately.

7.93   We confirm the requirement for each local station to maintain a Public File although, following consultation, we have slightly amended our plans. We will write to each station, setting out our plans to change their licence to incorporate the need to maintain and publicise a Public File.

7.94   We note that, in the longer term, as digital radio listening takes over from analogue listening, Ofcom will need to adapt the regulation of analogue commercial local radio to changing circumstances.

7.95   We also note that, in the digital world, there will be few safeguards to ensure the provision of local programming which meets public purposes – particularly the provision of local news and information. We recommend that the Government considers, in due course, what statutory provisions may be required, if any, for DAB digital radio to ensure the continued provision of local material when simulcasting ends.

Annex 1

Responding to this Consultation

How to respond

Ofcom invites written views and comments on the consultation question about Format changes raised in this document, to be made by **5pm on 11 January 2006.** (Note: In addition, the accompanying document, *Radio – Licensing policy for VHF Band III, sub-band 3,* poses a question for consultation.)

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.

Please can you send your response to peter.davies@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Peter Davies
Director of Radio and Multimedia
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax:020 7981 3806

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the question asked in this document, which is listed in Annex 4. It would also help if you can explain why you hold your views and how Ofcom's proposals would impact on you.

Further information

If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Peter Davies on 020 7981 3476, Neil Stock on 020 7981 3301 or Martin Campbell on 020 7783 4677.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheet that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom's approach on intellectual property rights is explained further on its website at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

Following the end of the consultation period, Ofcom intends to publish a statement on matters being consulted before the end of the year.

Please note that you can register to get automatic notifications of when Ofcom documents are published at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 2) which it seeks to follow, including on the length of consultations. If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can contact Vicki Nash, Director, Scotland, who is Ofcom's consultation champion:

Vicki Nash
Ofcom
Sutherland House   Tel: 0141 229 7401
149 St Vincent St   Fax: 0141 229 7433
Glasgow G2 5NW   E-mail: vicki.nash@ofcom.org.uk

Ofcom's Consultation Principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

A2.1   Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

A2.2   We will be clear about who we are consulting, why, on what questions and for how long.

A2.3   We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.4   We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.5   There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.6   If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

A2.7   We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 3

Consultation Response Cover Sheet

A3.1   In the interests of transparency, we will publish all consultation responses in full on our website www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.

A3.2   We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.

A3.3   The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.

A3.4   We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.

A3.5   Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Radio - Preparing for the Future

To (Ofcom contact):   Peter Davies

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing ☐   Name/contact details/job title ☐

Whole response ☐   Organisation ☐

Part of the response ☐   If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here. ☐

Name   Signed (if hard copy)

Consultation Questions

A4.1   Our key proposals for this consultation are outlined in the executive summary and described in more detail throughout the document. We would welcome views by **11 January 2006** on the following question:

> *Do you agree with the proposed procedure and considerations for dealing with requests for Format changes for analogue commercial local radio stations?*

A4.2   Note: The accompanying document *Radio – Licensing policy for VHF Band III, sub-band 3* also poses a question for consultation regarding the allocation of spectrum.